

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SECARREAN ARTEL PROBY,
SHANIYA NITARA PROBY, and VAN
VINCENT GREGORY, JR., Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WILLIE PROBY,

Respondent-Appellant,

and

TALESHA ROBINSON and VAN GREGORY,
SR.,

Respondents.

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to his children, Secarrean and Shaniya, under MCL 712A.19b(3)(g), (h), and (j). We affirm.

The trial court did not clearly err in determining that statutory subsections (3)(g) and (h) were established by clear and convincing evidence and supported termination of respondent-appellant's parental rights. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence was clear and convincing that respondent-appellant had failed to personally provide proper care or custody for his children. Although respondent-appellant left the children in their mother's care following his imprisonment in May 2002, she was subsequently deemed an unsuitable parent in March 2004 because of drug use. Upon being notified of the children's temporary wardship, respondent-appellant immediately asked his mother or grandmother to step forward as caretakers for the children, but the evidence showed that neither one was suitable. Respondent-appellant's mother had a history of protective services involvement and an open protective services case, and his grandmother was elderly, recovering

from cancer, and struck a protective services worker. Additionally, the children were not acquainted with their paternal relatives.

Respondent-appellant's earliest release date from prison was May 2009, so there was no reasonable expectation that he would personally be able to provide proper care or custody for the children within a reasonable time. Although respondent-appellant stated that there were numerous paternal relatives suitable to care for the children, the ones who came forward in the year following the children's removal were not suitable. The children would be deprived of a normal home life for a period of at least two years following the termination hearing unless they were afforded the permanency that adoption offered.

It does not appear that the trial court relied upon statutory subsection (3)(j) in terminating respondent-appellant's parental rights, and because the children could not be returned to respondent-appellant's care, that subsection was inapplicable.

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children did not enjoy a parent-child bond with respondent-appellant because he was imprisoned when Secarrear was an infant and before Shaniya's birth. It was uncertain whether respondent-appellant would be released from prison in four years or whether he would be a suitable parent following his release. Meanwhile, the children's maternal relative placements offered the children the security of adoption.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot