

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANTHONY GENO and DONALD
GENO, Minors,

UNPUBLISHED
April 23, 1996

DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

No. 184065; 184453
LC No. 92-016204-NA

FRANCIS GENO and DEBRA BOLT,

Respondents-Appellants.

Before: Sawyer, P.J., and Neff and R.D. Gotham,* JJ.

MEMORANDUM.

Respondents appeal from an order of the probate court terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (b)(ii), (c)(i), (g), and (h); MSA 27.3178(598.19b)(3)(b)(i), (b)(ii), (c)(i), (g), and (h). We affirm.

The respondent father argues that the trial court erred in terminating his parental rights under MCL 712A.19b(3)(h); MSA 27.3178(598.19b)(3)(h) because there was insufficient evidence to establish that respondent father would remain imprisoned for an additional two years and be unable to care for the children. However, respondent father's argument overlooks the fact that this was not the sole basis for termination, termination arising from several different statutory grounds. Thus, even if we were to agree with respondent father on this issue, there would remain unchallenged the various other grounds upon which the trial court terminated the parental rights.

However, with respect to respondent father's argument concerning the sufficiency of the evidence, as well as respondent mother's argument that the trial court erred in terminating her parental

* Circuit judge, sitting on the Court of Appeals by assignment.

rights, we are not persuaded that the trial court erred. The rules related to review of termination decisions were summarized in *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991):

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds of MCL 712A.19b; MSA 27.3178(598.19b), formerly MCL 712A.19a; MSA 27.3178(598.19a), has been met by clear and convincing evidence. MCR 5.974(A)(2); *In re Vernia*, 178 Mich App 280, 282; 443 NW2d 404 (1989); *In re Springer*, 172 Mich App 466, 473; 432 NW2d 342 (1988). This Court reviews the probate court's findings of fact under the clearly erroneous standard. *In re Miller*, 182 Mich App 70; 451 NW2d 576 (1990). Once the probate court finds statutory grounds for termination by clear and convincing evidence, the decision whether to terminate is within the court's discretion, and the best interests of the children are to be considered. MCL 712A.19b(3); MSA 27.3178(598.19b)(3); formerly MCL 712A.19a; MSA 27.3178(598.19a); *In re Miller, supra* at 84; *In re Schejbal*, 131 Mich App 833, 836; 346 NW2d 597 (1984). Therefore, because the ultimate decision whether to terminate parental rights is discretionary, it is reviewed for an abuse of discretion. *In re Miller, supra* at 84.

In the case at bar, this Court has carefully reviewed the record on appeal, the opinion of the probate court, and the briefs of the parties. We are not persuaded that the trial court erred in finding that the statutory grounds for termination were met and that it was in the best interests of the child to terminate the parental rights. Accordingly, we find no abuse of discretion by the trial court in terminating respondents' parental rights.

Affirmed.

/s/ David H. Sawyer

/s/ Janet T. Neff

/s/ Roy D. Gotham