STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ALIYA R. FLETCHER, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

FLOYD KNOX,

Respondent-Appellant.

UNPUBLISHED
June 10, 1997

No. 196731
Wayne Probate Court
LC No. 93-311842

Before: Saad, P.J., and Hood and McDonald, JJ.

MEMORANDUM.

Respondent appeals as of right from the probate court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g) and (h); MSA 27.3178(598.19b)(3)(c)(i), (g) and (h). We affirm.

Although the probate court clearly erred in stating that respondent failed to visit or plan for his child before he was imprisoned, inasmuch as the evidence established that respondent has been continuously incarcerated since before his child's birth, the probate court also indicated that respondent's imprisonment, by itself, served as an independent basis for termination. In light of the evidence of the length of respondent's incarceration, the age of the minor child, the absence of any relationship between respondent and his child, and the testimony that respondent's earliest possible out-date would be June 18, 1998, the probate court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, respondent failed to show that termination of his parental rights was clearly not in the child's best interest. *In re Hall-Smith*, ___ Mich App ___; ___ NW2d ___ (Docket No. 195833, issued 3/25/97), slip op p 3. Thus, the probate court did not err in terminating respondent's parental rights to the child. MCL 712A.19b(5); MSA 27.3178(598.19b)(5).

Affirmed.

/s/ Henry William Saad
/s/ Harold Hood
/s/ Gary R. McDonald