

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of RODNEY DEWAYNE MAYS,
JR., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RODNEY DEWAYNE MAYS, SR.,

Respondent-Appellant.

UNPUBLISHED

February 8, 2007

No. 272111

Saginaw Circuit Court

Family Division

LC No. 05-029677-NA

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

MEMORANDUM.

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

The trial court did not clearly err in finding that the statutory grounds for termination, MCL 712A.19b(3)(c)(i) and (g), were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

In November of 2003, respondent was incarcerated, rendering it impossible for him to physically provide the child with proper care and custody. At the time of the termination hearing, respondent was still incarcerated and unable to provide a home for the child. Although respondent assumed that he would be released from prison on December 1, 2006, there was no evidence that he would be able to care for his child on that date. Upon release from prison, respondent would have to establish and maintain stable housing, employment, and a crime free lifestyle. In addition, after his release, respondent still had to participate in services to learn to care for a child that he had not seen in three years. This evidence combined with respondent's prior incarceration and relapse into criminal activity constituted clear and convincing evidence to support the trial court's conclusion that termination was warranted pursuant to MCL 712A.19b(3)(c)(i) and (g). In addition, there was no evidence from which the trial court could have concluded that termination was clearly contrary to the child's best interests.

Affirmed.

/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio