

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of DOUGLAS JAMES  
SATTERLEE, Minor.

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CHARLES SCHOEDEL and KATHERINE  
SCHOEDEL,

UNPUBLISHED  
June 26, 2007

Petitioners-Appellees,

v

DOUGLAS RAY SATTERLEE,

Respondent-Appellant.

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No. 273679  
Manistee Circuit Court  
Family Division  
LC No. 05-900010-AF

Before: Meter, P.J., and Kelly and Fort Hood, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(f), (g), and (n). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(b).

Since December 2000, respondent has been imprisoned for third-degree criminal sexual conduct, MCL 750.520d. According to the felony complaint, the incident involved a boy under the age of 13 years. At the time of the termination trial, he had served over five years of his five-to fifteen-year sentence. Before that, respondent was imprisoned for a 1989 conviction for second-degree criminal sexual conduct, MCL 750.520c, for which he served almost five years, during which time he received sexual offender counseling. In 2002, during respondent's current imprisonment, petitioners, the child's aunt and uncle, were appointed as the child's guardians after the child's mother left him in their care. She subsequently consented to petitioners' adoption of the child and voluntarily relinquished her parental rights. In November 2005, petitioners filed a petition seeking termination of respondent's parental rights. By the time of the termination trial, in June 2006, the child, who was nine years old, had resided with petitioners for four years.

Since respondent's imprisonment in 2000, he has had no contact with the child and, according to petitioners, the child did not know respondent as his father. During the two years preceding the filing of the petition, respondent attempted to communicate with the child on only three occasions by sending him letters. He never attempted to call the child nor did he seek permission from petitioners to contact the child by way of the telephone. In the four years that

the child resided with petitioners, they never received any financial support from respondent for the child's care. Respondent earned a modest income in prison, amounting to \$23 per month at the time of the termination trial. While imprisoned, he attempted to improve himself by completing his GED, a technical course in graphic arts, bible study courses, a sex offender class, and a Long Distance Dance Program and continued to work on whatever was needed to better himself. Upon his release from prison, respondent desired to be a part of the child's life and believed he would be able to care for him.

Respondent claims that petitioners failed to establish by clear and convincing evidence grounds for termination under MCL 710.51(6). The trial court, however, did not rely on MCL 710.51(6), which provides a basis for termination of parental rights in stepparent adoption proceedings, to terminate respondent's parental rights. Instead, the court terminated respondent's parental rights under MCL 712A.19b(3)(f), (g), and (n). We find no clear error in the trial court's determination that termination was warranted under those subsections. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993).

First, we find that termination was appropriate under subsection (f). Although respondent could not meet his court-ordered support obligation because of his imprisonment, he did earn some income in prison, albeit a modest amount, which he could have used towards assisting in supporting the child, yet he failed to do so. Instead, he used his income to purchase cosmetics. Respondent, having the ability to provide some amount of support for the child's care, clearly neglected or failed to provide regular and substantial support for the child. MCL 712A.19b(3)(f)(i). Respondent's sporadic and minimal attempts to contact the child over the two years preceding the filing of the petition also clearly established that he failed to regularly or substantially contact or communicate with the child. MCL 712A.19b(3)(f)(ii). Contrary to respondent's argument on appeal, although the child's guardians did not encourage the child to communicate with respondent, they never prevented respondent from contacting or communicating with the child. While respondent's imprisonment effectively prohibited him from having a custodial relationship with the child, it did not preclude him from providing some level of support for the child or attempting to contact or communicate with him on a regular basis. See *In re Lang*, 236 Mich App 129, 140; 600 NW2d 646 (1999); *In re Caldwell*, 228 Mich App 116, 121-123; 576 NW2d 724 (1998). Accordingly, the trial court did not clearly err in finding that respondent had the ability to provide some assistance in supporting the child, but failed to do so, and that he failed to regularly or substantially communicate with the child.

The evidence also clearly and convincingly established grounds for termination under subsection (g). For the last five to six years, over half of the child's life, respondent has been unavailable to provide care or custody for the child because of his imprisonment. During that time, he failed to provide any financial support for the child and did not attempt to maintain regular contact with him. Although by the time of the termination trial, respondent had finished serving his minimum five-year term, under his current sentence he could have potentially served another ten years in prison. This was an unreasonable amount of time for the child, who was aged nine at the time of the termination trial and had not had contact with respondent for over half of his life, to wait for permanency. Even if respondent was released in December 2006, his

earliest possible release date, it could not be reasonably expected that he could provide the child, a young boy, with a safe and stable home because of his past criminality. Accordingly, we find no clear error in the trial court's determination that respondent failed to provide proper care or custody and that there was no reasonable expectation that he would be able to do so within a reasonable time considering the child's age.

Finally, the evidence clearly and convincingly established grounds for termination under subsection (n). Given that respondent had twice been convicted of criminal sexual conduct, and given the evidence that at least one of the convictions involved a young boy, the evidence showed that continuing the parent-child relationship with respondent would clearly be harmful to the child, a nine-year-old boy, as he would be placed at a significant risk of future abuse. Under such circumstances, the court did not clearly err in finding that termination was in the child's best interests and termination under subsection (n) was appropriate.

Respondent also briefly claims that reversal of the trial court's order terminating his parental rights was warranted because the court did not indicate in its findings that it applied a clear and convincing standard in determining whether the evidence sufficiently supported grounds for termination. We disagree. It is apparent from our review of the record that the court was aware of the pertinent issues in the case and correctly applied the law. *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176-177; 530 NW2d 772 (1995).

Affirmed.

/s/ Patrick M. Meter  
/s/ Kirsten Frank Kelly  
/s/ Karen M. Fort Hood