

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of E.H., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TIMOTHY ROSS,

Respondent-Appellant,

and

MERIMA HRNKAS and SPOMENKO HRNKAS,

Respondents.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MERIMA HRNKAS,

Respondent-Appellant,

and

TIMOTHY ROSS,

Respondent.

Before: Murray, P.J., and Sawyer and Zahra, JJ.

PER CURIAM.

UNPUBLISHED

August 6, 2002

No. 237722

Macomb Circuit Court

Family Division

LC No. 2000-049655-NA

No. 237959

Macomb Circuit Court

Family Division

LC No. 2000-049655-NA

In these consolidated cases respondents appeal as of right the trial court's order terminating their parental rights to their child pursuant to MCL 712A.19b(3)(a)(ii), (g), and (h).¹ We affirm in both cases. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.*, 356-357.

We hold that the trial court did not clearly err in finding that petitioner established one or more statutory grounds for the termination of the parental rights of both respondents. Respondents had no contact with the child after his birth. The failure to communicate with or provide support for a child for ninety-one days or more is presumptive evidence of intent to abandon the child. *In re Sterling*, 162 Mich App 328, 336; 412 NW2d 284 (1987). At the time of the termination hearing, it was undisputed that respondent Ross would be imprisoned for a minimum term exceeding two years, and that he had not put forth a viable plan for the care of the child in the meantime.

Furthermore, it was undisputed that the earliest possible parole date for respondent Hrnkas was more than one year following the hearing, that she had no guarantee that she would be paroled at that time, and that she had offered no viable plan for the care of the child during her imprisonment. The trial court did not clearly err in finding that termination of respondents' parental rights was warranted on grounds of abandonment, MCL 712A.19b(3)(a)(ii), failure to provide proper care or custody, MCL 712A.19b(3)(g), and imprisonment, MCL 712A.19b(3)(h). The evidence did not show that termination of respondents' parental rights was clearly not in the child's best interests. MCR 5.974(I); *Trejo, supra*.

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Brian K. Zahra

¹ The trial court's order also terminated the parental rights of respondent Spomenko Hrnkas, the husband of Merima Hrnkas and the legal father of E.H. Spomenko Hrnkas has not appealed the order. Testing revealed that Timothy Ross is E.H.'s natural father.