

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CRAIG GARCIA, JR., and
ZACHARY GARCIA, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CRAIG GARCIA,

Respondent-Appellant,

and

JEANNETTE GARCIA,

Respondent.

UNPUBLISHED

April 6, 2004

No. 251767

Saginaw Circuit Court

Family Division

LC No. 02-028067-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(j). We affirm.

The trial court did not clearly err in finding that this statutory ground for termination was established by clear and convincing evidence. MCR 3.977; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Based on the credibility of the minor children, the trial court found that respondent-appellant's brother had abused one of the children and that respondent-appellant knew this. Despite being told not to, respondent-appellant returned to the perpetrator's home with his children and then told them to lie about the visits. Respondent-appellant testified that he did not believe his children and would permit future contact with the perpetrator. The trial court also found that respondent-appellant had choked one of his children and pushed another child. We give deference to the trial court's findings of credibility. *Miller, supra* at 337. This evidence is enough to establish a future risk of exposure to sexual abuse, or physical harm to the children by respondent-appellant.

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent-appellant was seeking services to improve his parenting and there was evidence that contact with him was important to the children. The strong evidence showing a reasonable likelihood of harm if the children were returned, however, counterbalanced this. Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette