

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SHONTAE DAVIS,
DESHAWAN DAVIS, MATTHEW CLAY,
WILLIE CLAY, and CHRISTOPHER CLAY,
Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
September 22, 2005

Petitioner-Appellee,

v

WILLIAM BRYON CLAY,

Respondent-Appellant.

No. 261464
Wayne Circuit Court
Family Division
LC No. 04-430932-NA

Before: Bandstra, P.J., and Neff and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right from the order of the trial court terminating his parental rights to his minor children, Matthew, Willie, and Christopher, pursuant to MCL 712A.19b(3)(b)(i), (g), and (k). We affirm.

Respondent contends that the trial court erred in finding that clear and convincing evidence supported termination of his parental rights pursuant to MCL 712A.19b(3)(k). We disagree. The thirteen-year-old daughter of respondent's live-in partner testified that respondent had on two occasions sexually assaulted her, including penetration. As the thirteen-year-old was the half-sister of respondent's own children, the trial court did not err in finding subsection (3)(k) applicable. Nor did the trial court err in finding the testimony of the child credible. The trial court noted that her testimony was given without hesitation, appeared unrehearsed, and was corroborated in some respects by other witnesses. This Court gives consideration to the special ability of the trial court to judge the credibility of the witnesses that appear before the trial court. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Contrary to respondent's contentions, ample evidence existed on the record to support the trial court's decision. Ample evidence also supported the trial court's termination of respondent's parental rights pursuant to MCL 712A.19b(3)(b)(i) and (g). The trial court, therefore, did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *Miller, supra* at 337.

We also hold that the trial court did not err in determining that termination was not contrary to the best interests of the children. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Richard A. Bandstra
/s/ Janet T. Neff
/s/ Pat M. Donofrio