

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROLLAND JOSIAH BENDER,
Minor.

JENNIFER BEAUCHAINE,

Petitioner-Appellee,

UNPUBLISHED
June 12, 2007

v

ROLLAND SHAWN BENDER,

Respondent-Appellant.

No. 276277
Ingham Circuit Court
Family Division
LC No. 00-067224-NA

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right from a circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(h) and (n)(i). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that clear and convincing legally admissible evidence proved that one or more facts alleged in the petition are true and established a basis for termination under § 19b(3). MCR 3.977(E); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). At the time the petition was filed, respondent was serving a prison sentence of 40 months to 15 years and still had 25 months to serve on his minimum sentence. Additionally, even if respondent were released in December 2008, he would have to obtain suitable housing and employment, reestablish a relationship with his son, and demonstrate proper parenting ability before reunification could be considered. Thus, he would not be able to provide proper care and custody within a reasonable time. MCL 712A.19b(3)(h). Further, respondent had been convicted of assault with intent to commit criminal sexual conduct involving penetration, MCL 750.520g, which arose from an offense against the child's mother, and the court found that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(3)(n)(i). The trial court did not clearly err in finding that a statutory ground for termination was properly established.

The trial court also did not clearly err in its determination of the best interest factor. *In re Trejo, supra* at 356-357; MCL 712A.19b(5). While the parties did not present any evidence directly addressing this issue, the trial court was permitted to determine from the evidence on the whole record whether termination was contrary to the child's best interests. *In re Trejo, supra* at

353. The evidence did not clearly show that termination of respondent's parental rights was not in the child's best interests. Therefore, the trial court did not err in terminating respondent's parental rights to the child. *Id.* at 356-357.

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio