

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KAINAYE IRENE KING, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PHILIP MCCRARY,

Respondent-Appellant.

UNPUBLISHED

July 17, 2008

No. 282300

Wayne Circuit Court

Family Division

LC No. 97-361367-NA

Before: Saad, C.J., and Fort Hood and Borrello, JJ.

MEMORANDUM.

Respondent appeals as of right the order of the trial court terminating his parental rights to his minor child pursuant to MCL 712A.19b(3)(g), (h), and (j). We affirm.

To terminate parental rights, a trial court must find that at least one of the statutory grounds for termination has been demonstrated by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). If the trial court determines that a statutory ground for termination has been established, the trial court is required to terminate the respondent's parental rights unless the trial court finds that termination is clearly not in the child's best interests. MCL 712A.19b(5).

Respondent entered the home where the child was living with her mother and half-siblings at night and without the mother's consent. He then sexually assaulted the minor child's 11-year-old half-sister who lived in the home. For this act, respondent was convicted of criminal sexual conduct and sentenced to 10 to 30 years' imprisonment. The trial court found sufficient facts to terminate respondent's parental rights under subsections MCL 712A.19b(3)(g), (h), and (j) and further found that termination was not contrary to the child best interests.

Respondent does not contend error by the trial court in its finding that a statutory ground for termination existed but instead contends that the trial court erred in finding that termination was not contrary to the best interests of the child. We disagree. The egregious nature of respondent's conduct suggests that no child would be safe in respondent's presence and that termination was therefore necessary to ensure the safety of the child. In light of the dangerous nature of respondent's conduct toward another child and his disregard for the welfare of his own

child who was present in the home, it cannot be said that the trial court clearly erred in determining that termination was not contrary to the best interests of the minor child.

We also reject respondent's contention that the trial court improperly assumed jurisdiction of the child under MCL 712A.2(b) because there was no evidence on the record that he neglected the child or that the child was living in an unfit home. The record supports the trial court's findings that respondent's criminal act against the child's half-sister presented a substantial risk of harm to the child's mental and emotional well-being and conferred jurisdiction upon the trial court under subsection (b)(1), while his depravity rendered the home unfit, at least while his presence there was a possibility, thereby conferring jurisdiction under subsection (b)(2). In light of the record, the trial court correctly assumed jurisdiction over the child.

Affirmed.

/s/ Henry William Saad

/s/ Karen M. Fort Hood

/s/ Stephen L. Borrello