

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of B. L. V., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

DARRELL VELA,

Respondent-Appellee.

UNPUBLISHED

March 5, 2002

No. 235504

Muskegon Circuit Court

Family Division

LC No. 99-027406-NA

Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Respondent appeals as of right from an order terminating his parental rights to the minor child under MCL 712A.19b(3)(h). We affirm.

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). If a court taking action on a supplemental petition determines that there is clear and convincing evidence establishing one or more statutory grounds for termination, the court must terminate parental rights unless termination is clearly not in the best interest of the child. MCR 5.974(E). See also *Trejo, supra* at 351-354; *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999).

The trial court did not clearly err in finding that there was clear and convincing evidence warranting termination under MCL 712A.19b(3)(h). Respondent pleaded no contest to allegations that he was convicted of second-degree criminal sexual conduct involving the child and that he faced five to fifteen years' imprisonment for that offense, a fact confirmed by his judgment of sentence. Even if he is re-tried or paroled on his earliest release date, a letter from the child's counselor established that she could not be safely returned to respondent's care. Compare *In re SD*, 236 Mich App 240, 247; 599 NW2d 772 (1999). Further, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interest. MCL 712A.19b(5); *Trejo, supra*, at 356-357.

We also reject respondent's claim that he was denied the effective assistance of counsel. The principles of effective assistance of counsel developed in the context of criminal law apply by analogy in child protective proceedings. *In re Trowbridge*, 155 Mich App 785, 786; 401

NW2d 65 (1986). In reviewing a claim of ineffective assistance of counsel in the analogous context of a guilty plea, the key issue is whether the defendant tendered the plea voluntarily and understandingly. *People v Watkins*, 247 Mich App 14, 31; 634 NW2d 370 (2001). In this case, there is nothing in the record suggesting that respondent's decision to plead no contest was not voluntarily and understandingly made, and counsel's advice was well within the range of competence demanded of attorneys. We also reject respondent's claim that counsel violated the attorney-client privilege. The privilege applies only to confidential communications by the client to his attorney that are made for the purpose of obtaining legal advice. *McCartney v Attorney General*, 231 Mich App 722, 731; 587 NW2d 824 (1998).

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray