# STATE OF MICHIGAN

# COURT OF APPEALS

In the Matter of AMANDA MARIE SUE CAUSEY, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PAULA SUE CAUSEY and KENNETH CAUSEY, SR.,

Respondents-Appellants.

UNPUBLISHED
March 22, 2007

No. 273169
Saginaw Circuit Court
Family Division
LC No. 06-027252-NA

Before: Zahra, P.J., and Bandstra and Owens, JJ.

PER CURIAM.

Respondents appeal as of right from the order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j).[1] We affirm.

Respondents contend that their due process rights were violated when the trial court did not allow them additional time to engage in services. Because respondents did not raise this argument below, it is not preserved for appellate review. *In re Hildebrant,* 216 Mich App 384, 389; 548 NW2d 715 (1996). Accordingly, our review is limited to plain error affecting substantial rights. *People v Carines,* 460 Mich 750, 763-764; 597 NW2d 130 (1999). Respondents' argument lacks merit because they were given an adequate opportunity for improvement.

Although a termination petition was not filed until March 2006, the record reveals that on August 19, 2001, Dr. David Breyer completed psychological evaluations on the family, and recommended that respondents work with ARC Services because traditional parenting programs

[1] Contrary to respondents' assertion, it does not appear that the trial court terminated their parental rights under MCL 712A.19b(3)(b)(*ii*) and (*iii*). Even if the trial court erroneously relied on these subsections, however, such error was harmless because at least one statutory ground was established by clear and convincing evidence. *In re KMP,* 244 Mich App 111, 118; 624 NW2d 472 (2000).

would not be helpful due to respondents' learning disabilities. Dawn Knoellinger, with ARC Services, testified that respondents had participated in the "Smart Parent Program" since September 2001. One issue that Knoellinger assisted respondents with was learning how to maintain their house. She also recommended that respondent-father attend a substance abuse treatment program and that respondents attend counseling sessions.

The above evidence demonstrates that respondents not only received years of assistance from ARC Services, but were referred to other services. Therefore, we find no plain error in the trial court's failure to provide respondents additional time to engage in further services. *Carines, supra* at 763-764.

Respondents also contend that the trial court erred in terminating their parental rights. The termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the trial court shall terminate parental rights unless it finds that termination is clearly not in the child's best interests. *Id.* at 353. This Court reviews the trial court's findings under the clearly erroneous standard. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondents argue that the trial court erred in terminating their parental rights under MCL 712A.19b(3)(g) because they should have been allowed an opportunity to demonstrate their ability to parent their daughter since their son was no longer in the home.[2] We disagree.

Respondents' daughter is a special needs child. Respondents were diagnosed with mild mental retardation. Dr. Breyer opined that such limitations affected their ability to parent their daughter. In addition, Knoellinger testified that respondents' son had been out of the home in the past, and that this fact did not make any difference in respondents' ability to parent their daughter. Knoellinger also did not believe that, if provided additional time, respondents could correct the problems in the home so that their daughter could be safely returned to their care.

Based on the above evidence, the trial court did not clearly err in finding that respondents failed to provide proper care for their daughter and that there was no reasonable expectation that they would be able to do so within a reasonable time considering her age, MCL 712A.19b(3)(g).

Respondents next contend that the trial court clearly erred in terminating their parental rights under MCL 712A.19b(3)(j) because there was no evidence that they ever struck or purposefully harmed their daughter. However, MCL 712A.19b(3)(j) does not require that respondents purposefully harmed the child. Rather, the plain language of that subsection provides that termination is appropriate if there is clear and convincing evidence demonstrating a reasonable likelihood, based on respondents' conduct or capacity, that the child will be harmed if returned to their care.

[2] The petition alleged that respondents' son digitally penetrated Amanda. Their son was found responsible for criminal sexual conduct and was placed in rehabilitative care.

Knoellinger opined that the child would be at risk if returned to respondents' care. She relied on the fact that respondents did not learn from their mistakes and still had the same people frequenting their home. Knoellinger also relied on respondent-father's substance abuse problem. Jeanne Swank, the CASA, also expressed concern with the daughter's safety. Such evidence supports the trial court's finding that, based on respondents' conduct and capacity, a reasonable likelihood existed that the child will be at risk of both emotional and physical harm if placed in respondents' care. Thus, termination was warranted under MCL 712A.19b(3)(j).

Finally, respondents contend that the trial court abused its discretion in finding that termination of their parental rights was in the child's best interest. We acknowledge that the testimony revealed that respondents love their daughter. However, there was conflicting testimony regarding what was in her best interests. Robin Townsend, the child's teacher, believed that, if respondents' son was no longer in the home, their daughter would do quite well living with respondents. Further, the child's pediatrician opined that it was not a "good idea" to terminate respondents' parental rights.

The CPS worker testified that although respondents and the child had a bond, respondents could not provide the care and protection that the child needed. Respondent-father's substance abuse problem had not been fully addressed, which posed a risk of harm to the child. Swank also had concerns regarding whether respondents could protect their daughter from further abuse.

Evidence revealed that the child was doing well in her placement. In her CASA court report, Swank stated that the child's social skills had greatly improved since her placement. Swank expressed concern that if the child was returned to respondents' care, she would lose what she had accomplished thus far.

We review the trial court's decision regarding the child's best interests for clear error. *In re Trejo, supra* at 356-357. Giving due regard to the trial court's special opportunity to observe the above witnesses, we are not left with a firm and definite conviction that a mistake has been made. *In re Miller,* 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence did not demonstrate that termination of respondents' parental rights was clearly not in Amanda's best interests.

Affirmed.

/s/ Brian K. Zahra
/s/ Richard A. Bandstra
/s/ Donald S. Owens