# STATE OF MICHIGAN

# COURT OF APPEALS

In the Matter of ANGELA MARIE KOAN, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KENNETH KOAN, JR.,

Respondent-Appellant.

UNPUBLISHED
November 20, 2007

No. 278307
Barry Circuit Court
Family Division
LC No. 06-007257-NA

In the Matter of ANGELA MARIE KOAN, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STEFANIE LYN KOAN,

Respondent-Appellant.

No. 278308
Barry Circuit Court
Family Division
LC No. 06-007257-NA

Before: Murphy, P.J., and Smolenski and Meter, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court's order terminating their parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). We affirm.

Both respondents argue that the trial court erred in finding that the evidence supported termination of their parental rights. We disagree. This Court reviews the trial court's factual findings for clear error. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding is clearly erroneous if, although there is evidence to support it, the Court is left with a definite and firm conviction that the trial court made a mistake. *In re Miller*, *supra* at 337. Once

a statutory ground for termination is established by clear and convincing evidence, the court must order termination of parental rights, unless it finds that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000).

The trial court did not clearly err in finding that a statutory ground for termination existed. The evidence established that more than 182 days had elapsed since the initial dispositional order was entered. The conditions that led to the adjudication included a neglectful environment, lack of supervision, and an unclean and unsafe home. After months of intervention and intensive services, respondents failed to acknowledge their issues with neglect, failed to internalize and employ proper parenting skills, continued to make inappropriate decisions regarding the child's well being, and failed to maintain a suitable home.

Throughout the case, respondents failed to consistently and substantially comply with the case service plan, which was designed to enable them to address the issues that brought the child into care and to regain custody of the child. Notably, although respondents attended parenting classes, they failed to demonstrate proper parenting techniques and skills during visits. Respondents also failed to maintain suitable, safe, and clean housing. The trial court could properly consider respondents' failure to comply with the case service plan as an indication that the neglect that had been shown would continue. See *In re Miller*, 182 Mich App 70, 83; 451 NW2d 576 (1990).

Contrary to respondents' position, simply attending various counseling sessions, parenting classes, and visits was not enough to preclude termination of their parental rights. Rather, the evidence clearly established that respondents failed to achieve the underlying and fundamental requisite, which was to be in a position to properly parent, provide for, and supervise the child. Considering respondents' history, conduct, and lack of parenting skills, there was no reasonable likelihood that their circumstances would sufficiently change or improve within a reasonable time and, therefore, no reasonable expectation that they would be able to provide proper care and custody within a reasonable time considering the child's age. Also, the evidence did not clearly show that termination of respondents' parental rights was not in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 354. Consequently, the trial court did not err in terminating respondents' parental rights to the child.

We reject respondent-father's claim that the trial court erred when it denied his request to sequester a DHS caseworker. The decision whether to sequester witnesses is within the trial court's discretion. *In re Jackson*, 199 Mich App 22, 29; 501 NW2d 182 (1993). MCR 3.903(A)(18)(b) provides that a "party" includes a petitioner in a protective proceeding. As noted by the trial court, because the DHS was the petitioner, the DHS representative was considered a party. Therefore, she was entitled to be present. See MRE 615.

We also reject respondent-mother's claim that the trial court erred in denying her motion for the appointment of an independent mental health care expert. A trial court's denial of a motion requesting the appointment of an expert witness is reviewed for an abuse of discretion. *In the Matter of Bell*, 138 Mich App 184, 187; 360 NW2d 868 (1984). A claim for examination by an independent expert must be accompanied by a showing that the appointment of an independent expert is necessary. This may be accomplished by a showing that the petitioner's expert was biased or prejudiced against the respondent or by disputing with particularity the

opinions and recommendations of the expert. *Id* at 187-188. In addition, the respondent must show that an independent expert would testify favorably to the respondent. *Id.*

Respondent-mother did not satisfy any of these requirements. She did not explain what possible assistance an additional expert would offer, or provide proof that the expert would have given favorable testimony. She also did not argue that the prior psychological evaluation was invalid or explain why another evaluation was reasonably likely to be different. Nor is there anything inherent in the prior evaluation to indicate that it was inaccurate, or that the person who performed it was biased or prejudiced against respondent-mother. Therefore, the trial court did not abuse its discretion when it refused to appoint an independent mental health expert.

Affirmed.

/s/ William B. Murphy
/s/ Michael R. Smolenski
/s/ Patrick M. Meter