

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SARAH ARAYA JOY PAUL,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

AMY BETH PAUL-GARCIA,

Respondent-Appellant,

and

DAVID McINTOSH,

Respondent.

UNPUBLISHED

July 15, 2008

No. 282896

Kent Circuit Court

Family Division

LC No. 06-054284-NA

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

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). We affirm.

Termination of parental rights is appropriate where the 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 the termination is clearly not in the best interests of the child. *Id.* at 364-365. We review the trial court's findings under the clearly erroneous standard. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999); MCR 3.977(J). A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

A petition to take temporary custody of Sarah and older children Grace and Anthony Garcia was filed on September 27, 2006. The trial court found that respondent had "passed out" and was unable to care for her children on August 16, 2006. Previously, services were offered

by Families First and other agencies, but respondent failed to cooperate sufficiently. Two other older children, Sadie and Collin, were delinquent wards, and an adult son, Dustin, had sexually molested Sadie when she was six through 11 years old. Respondent was still married to Juan Garcia, but the father of Sarah, Collin, Sadie, and Dustin was respondent David McIntosh. McIntosh had severe substance abuse problems and had been in and out of prison for drug crimes. Respondent and McIntosh had a volatile yet codependent relationship involving emotional abuse and stalking behavior by McIntosh.

A supplemental petition covering only Sarah was filed in December 2006 and an order of disposition was entered on December 7. The trial court ordered respondent to provide drug screens, attend substance abuse treatment and counseling for sexual abuse and domestic violence, and implement recommendations for psychological evaluation. She was to have supervised visitations and secure employment or educational improvement. Her parent agency agreement (PAA) also required Alcoholics Anonymous (AA), parenting classes, and addressing emotional stability. Additionally, the trial court informed respondent that although it would not prohibit contact between she and McIntosh, any contact between them was strongly discouraged. The court further stated that it would not be inclined to return Sarah to respondent if she maintained contact with McIntosh. While respondent did partially comply with these requirements, she failed to improve sufficiently so that Sarah would not be at risk in her care. *In re Trejo*, *supra* at 360-361 n 16; *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005).

Significantly, respondent continued to have contact with McIntosh. McIntosh left or was ejected from several drug treatment programs and continued using drugs. In July 2007, respondent became pregnant with McIntosh's child. She also risked eviction by allowing McIntosh's daughter and her three children to live with her. Further, she made minimal progress in therapy and did not accept responsibility for the sexual abuse of Sadie by Dustin in her home or take measures to prevent further occurrences or be aware of the risk that Dustin posed to her other children. Respondent did stop drinking after September 2006, but her continued contact with McIntosh placed her in danger of relapse. Respondent also suffered from severe anxiety, and only shortly before the final hearing was willing to try psychotropic medications. While respondent argues that anxiety and domestic violence were not specifically pinpointed in the petitions, the October 2006 psychological evaluation, PAAs, court reports, and referee and court findings all dealt with these problems early on. The evidence clearly and convincingly satisfied the statutory grounds of MCL 712A.19b(3)(c)(i) and (g) for terminating respondent's parental rights to Sarah.

We also find no clear error in the lower court's ruling on Sarah's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 353, 356-357. Sarah is a very active toddler and needs a safe, nurturing home that is free from drugs and domestic violence. While respondent interacted appropriately with Sarah at visitations and they shared a bond, respondent's continued contact with McIntosh and her inability to conquer her emotional problems would place Sarah at risk in

her care. Termination of respondent's parental rights was not clearly contrary to Sarah's best interests.

Affirmed.

/s/ William B. Murphy

/s/ Richard A. Bandstra

/s/ Jane M. Beckering