

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 15, 2010

In the Matter of E.E.A. FAY, M. FAY, and C.
FAY, Minors

No. 295193
Barry Circuit Court
Family Division
LC No. 09-007896-NA

Before: MURRAY, P.J., and DONOFRIO and GLEICHER, JJ.

PER CURIAM.

Respondent-appellant Valerie Fay appeals as of right the order of the trial court terminating her parental rights to her three minor children pursuant to MCL 712A.19b(3)(b)(ii), (g), and (j). We affirm.

Fay contends on appeal that the trial court erred in finding that termination was in the best interests of the children. We disagree. Because the trial court found at least one statutory ground for termination of parental rights by clear and convincing evidence, the trial court was then to decide whether termination was in the children's best interests before ordering termination. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). We review a trial court's decision regarding a child's best interests for clear error. *Id.* at 356-357.

The trial court did not clearly err in determining that termination was in the best interests of the children; rather, the record is replete with evidence supporting the trial court's determination. Respondent had repeatedly failed to protect the children in the past and showed neither an ability nor an inclination to protect them in the future. Respondent's older three children had reported abuse at home and all four of the children showed signs of serious abuse. Respondent had done nothing to alleviate the abuse in the past. She remained in the violent, abusive relationship with her first husband until he divorced her. Shortly thereafter she entered into the relationship with her second husband and strove to preserve that relationship regardless of the costs to her children. When in February 2009 one daughter reported sexual abuse perpetrated by respondent's second husband (the children's adoptive father), respondent failed to believe the daughter (and refused to speak with her) and continued to support the adoptive father, even after he pleaded guilty to criminal charges arising from the assaults, and even to the extent of indicating a desire to "reunite" the family, minus one child.

Respondent's avid defense of the adoptive father and campaign against the daughter in the wake of overwhelming evidence of the adoptive father's guilt made it clear that respondent was unlikely to protect her children when to do so is contrary to her own personal wants or needs. Just weeks before the termination hearing, respondent continued to correspond with the

adoptive father and to assure him that they together would triumph over the daughter involved in the sexual abuse. It was only shortly before the termination hearing, after he had filed for divorce, that respondent's zeal in favor of the adoptive father began to wane, and even then, respondent was unwilling to concede that the daughter had truthfully reported the abuse.

In addition, respondent took no steps that would have enabled her to regain custody of the children. At the time of the termination hearing, respondent did not have stable employment or housing. She had not consistently engaged in counseling and had not completed parenting classes. She had failed to end her contact with the adoptive father, had failed to admit that the adoptive father had sexually assaulted the daughter, and had failed to accept any responsibility for the events that led to the dissolution of the family. In light of the evidence on the whole record, the trial court did not clearly err in finding that termination was in the best interests of the children.

Affirmed.

/s/ Christopher M. Murray

/s/ Pat M. Donofrio

/s/ Elizabeth L. Gleicher