

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AARON CHAYTON WILLIAM
RUBINO, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DANIELLE BEAUDRY,

Respondent-Appellant.

UNPUBLISHED
October 16, 2008

No. 283705
Macomb Circuit Court
Family Division
LC No. 2006-000390-NA

In the Matter of VICTORIA ANN MARIE
RUBINO, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DANIELLE BEAUDRY,

Respondent-Appellant.

No. 283706
Macomb Circuit Court
Family Division
LC No. 2006-000143-NA

In the Matter of ELIZABETH BRANDINO-NINA
RUBINO, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

No. 283707
Macomb Circuit Court

DANIELLE BEAUDRY,

Respondent-Appellant.

Family Division

LC No. 2006-000142-NA

Before: Meter, P.J., and Talbot and Murray, JJ.

PER CURIAM.

In these consolidated appeals, respondent appeals as of right the lower court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Clear and convincing evidence supported the termination of respondent's parental rights. MCR 3.977; *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). We find no clear error in the trial court's findings. MCR 3.977(J); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent and the father of the children, William Rubino, are both cognitively impaired. At the time the children came into care, they were living in a motel room with Rubino's limited guardian and aunt, Laura Rubino, and her husband after a fire destroyed the home in which they all lived. Because of these living conditions and other factors, a referral was made to protective services and the children were ultimately made wards of the court. At the time of the termination hearing, despite being provided services for nearly two years, respondent was still unable to safely parent her children or properly provide for them. Circumstances were further complicated because all three of her children had special needs. In order to satisfy those needs, respondent would be required to independently balance the needs of each child to get them to their various therapies, doctor appointments, and school. Respondent lacked the physical and cognitive resources to accomplish these tasks.

Further, we find that clear and convincing evidence supported the trial court's conclusion that respondent could not protect her children from the risk of harm. In order to protect a child from harm, a parent has to perceive the risk and then act accordingly. Respondent's history established that she lacked these skills. While pregnant with her second daughter, respondent learned that Rubino was a convicted pedophile. Despite this, respondent permitted her child to sleep in the same bed with Rubino in the hotel, and he was also alone with the children on other occasions. After the children came into care, it was discovered that Rubino had inappropriately touched the two girls. Despite this, respondent continued to have a relationship with Rubino up to and including the time of the termination hearing. In addition, respondent refused to acknowledge that Rubino was the perpetrator of the abuse. This conduct demonstrates that respondent lacked the ability or the will to perceive risk of potential harm to her children and to act in a manner that would ensure their safety.

Respondent was also unable to provide stable housing for her three children. In the nearly two years that the children had been in care, respondent was in and out of various hotels, apartments, and houses. She needed her mother's SSI benefits, in addition to her own, to qualify for housing. She also had to have her utilities in Rubino's name and the accounts were not paid in a timely manner. Not only could respondent not provide proper care and custody, there was

clear and convincing evidence to support the court's finding that circumstances would not be rectified within a reasonable time. Based upon the foregoing, the trial court did not err when it found that there was clear and convincing evidence to support termination of respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).

Finally, the trial court did not clearly err when it found that there was no evidence that termination of respondent's parental rights would not be in the children's best interests. When statutory grounds for termination exist, a court may decide not to terminate a parent's parental rights if there is evidence that termination would not be in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 354. Each of the children had their own special needs. In addition to the girls having developmental delays, particularly in speech, they also were in therapy to address the abuse. Aaron Rubino's special needs were related to a potential chromosomal abnormality and other complications, which required frequent medical attention. In order to meet these needs, the children required a stable and nurturing environment. Indeed, to foster the children's continued growth and development, it was imperative that the children be granted some stability and permanency in their lives.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael J. Talbot
/s/ Christopher M. Murray