

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASIA MARIE GAGER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NICOLE MARIE GAGER,

Respondent-Appellant.

UNPUBLISHED

April 11, 2006

No. 264399

Muskegon Circuit Court

Family Division

LC No. 04-032799-NA

Before: Hoekstra, P.J., and Wilder and Zahra, JJ.

MEMORANDUM.

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

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The principal condition that led to adjudication was respondent's failure to keep the minor child away from a registered sex offender. The evidence established that after the court assumed jurisdiction, respondent continued her relationship with the registered sex offender and even allowed him to sit in on a visit with the minor child. There was also evidence that respondent failed to rectify other conditions that would cause the child to come within the court's jurisdiction. Respondent failed to improve her parenting skills, did not make any progress towards earning her GED, refused to submit to a psychological examination, and refused to participate in a homemaker program designed to teach resource management. Evidence establishing respondent's lack of parenting skills and her inability to understand the need for protecting her child from a registered sex offender supported the court's conclusion that respondent failed to provide proper care and custody of the child. Because there was evidence that respondent continued to allow contact between her minor child and a registered sex offender, there was evidence that the child is likely to be harmed if returned to respondent's home.

Further, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Although there was testimony that respondent loves the minor child, other testimony established that respondent lacks the ability to provide basic care for the child

and has not been able to make healthy choices to ensure the safety of the minor child. Thus, the trial court did not err in terminating respondent's parental rights to the child.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder

/s/ Brian K. Zahra