

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAYLEN KAVANAGH and
TYRELL KAVANAGH, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SADIE KAVANAGH,

Respondent-Appellant,

and

EDDIE GAMBLE and JASON BUSEY,

Respondents.

UNPUBLISHED
September 9, 2008

No. 283936
Bay Circuit Court
Family Division
LC No. 94-005085-NA

Before: Whitbeck, P.J., and Bandstra and Donofrio, JJ.

MEMORANDUM.

Respondent Sadie Kavanagh appeals as of right the order of the trial court terminating her parental rights to her minor children pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care and custody), and (i) (parental rights to a sibling of the child have terminated).¹ Because the trial court did not clearly err in finding that termination was not contrary to the best interests of the children, we affirm.

Respondent does not challenge the trial court's finding of clear and convincing evidence to support termination under the statutory provisions. Rather, respondent contends that the trial

¹ The parental rights of respondent Eddie Gamble, the father of Tyrell, were terminated pursuant to his voluntary release, and he is not an appellant in this case. The parental rights of Jason Busey, the putative father of Jaylen, were terminated by the trial court, and he also is not an appellant in this case.

court should not have terminated her parental rights because to do so was contrary to the best interests of the children.

Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court is required to order termination of parental rights unless the trial court finds from evidence on the whole record 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). Neither party is required to offer proof on the issue of the best interests of the child, however, and the trial court is not required to make any specific finding on the record regarding the best interests of the child. *In re Gazella*, 264 Mich App 668, 677-678; 692 NW2d 708 (2005). Rather, MCL 712A.19b(5) is a mechanism by which the trial court may avoid terminating parental rights where it finds from the whole record that termination is clearly not in the best interests of the child. *Trejo*, *supra* at 353-354; *Gazella*, *supra* at 677-678.

In this case, the record does demonstrate a bond between respondent and the children. The older child, Jaylen, was particularly vocal in his desire to see his mother and to take care of her and protect her. However, although respondent professed her love for her children, she repeatedly placed them in danger while they were in her care. She took the children with her as she traveled around trafficking drugs. She possessed and used drugs in the home when the children were present. She repeatedly chose violent abusive partners and allowed them access to the home when the children were present. Although respondent had made strides in overcoming her cocaine addiction, she continued to use alcohol, engage in criminal activity, and engage in abusive relationships with men who had myriad problems. In light of the record, it cannot be said that the trial court clearly erred in determining that termination is not contrary to the best interests of the children.

Affirmed.

/s/ William C. Whitbeck
/s/ Richard A. Bandstra
/s/ Pat M. Donofrio