

STATE OF MICHIGAN
COURT OF APPEALS

In re B. M. PEARCE, Minor.

UNPUBLISHED
November 27, 2018

No. 344048
St. Clair Circuit Court
Family Division
LC No. 18-000019-NA

Before: JANSEN, P.J., and K. F. KELLY and BORRELLO, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court’s order terminating her parental rights to her minor child, BMP, pursuant to MCL 712A.19b(3)(b)(i), (i), (j), and (k)(iii)-(v). We affirm.

I. RELEVANT FACTS

BMP was removed from respondent-mother on January 10, 2018, two days after birth. There is no legal father. Petitioner, the Michigan Department of Health and Human Services (the DHHS), filed a petition for termination of respondent-mother’s parental rights, alleging that respondent mother previously had her parental rights to two children terminated. Her first child, CP, was removed from her care in 2001 following an incident where respondent-mother used a baby monitor to strike the then-infant CP in the head causing brain damage. As a result, CP will never be able to live independently, and suffers from “brain atrophy, seizure disorder, cerebral palsy, [and] developmental and physical delays that include [the] inability to talk normally, walk unaided[,] or attend to daily living tasks.” Respondent-mother was incarcerated from 2001 to 2007 following a conviction of first-degree child abuse stemming from the assault on CP.

In 2011, respondent-mother’s parental rights were also terminated to her second child, CE, due to threatened harm, physical abuse, and failure to protect. There was some evidence presented that respondent-mother had received services prior to the termination of her parental rights to CE, including parenting classes, parenting time, and counseling. However, services did not lead to successful reunification of respondent-mother and CE.

The trial court authorized the petition seeking to terminate respondent-mother’s parental rights to BMP on January 11, 2018, and respondent-mother consented to the trial court’s exercise of jurisdiction in this matter on February 28, 2018. Following a termination hearing on April 11, 2018, the trial court terminated respondent-mother’s parental rights. This appeal followed.

II. STANDARD OF REVIEW

Respondent argues that the trial court erroneously found statutory grounds for termination of her parental rights had been established by clear and convincing evidence. We disagree.

This Court reviews for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination." *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A trial court's findings of fact are clearly erroneous if this Court is "definitely and firmly convinced that it made a mistake." *Id.* at 709-710. "To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been proved by clear and convincing evidence." *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). This Court reviews questions of statutory interpretation de novo. *In re Harper*, 302 Mich App 349, 352; 839 NW2d 44 (2013).

III. STATUTORY GROUNDS

Respondent-mother challenges the trial court's determination that statutory grounds for termination of her parental rights existed under MCL 712A.19b(3)(b)(i), (i), (j), (k)(iii)-(v). We first address termination under MCL 712A.19b(3)(b)(i), which provides that statutory grounds for termination exist where:

(b) the child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

* * *

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

The record in this case establishes that respondent-mother's oldest child, CP, was abused by respondent-mother in December 2000. Respondent-mother struck the then 11-day-old CP in the head with a baby monitor three times until he would re-take his pacifier, causing brain damage. CP was injured, and now suffers from "brain atrophy, seizure disorder, cerebral palsy, [and] developmental and physical delays that include [the] inability to talk normally, walk unaided[,] or attend to daily living tasks." Respondent-mother was convicted of first-degree child abuse, and was incarcerated from August 2001 to February 2007.

This Court has determined that "[h]ow a parent treats one child is certainly probative of how that parent may treat other children." *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001) (internal quotation marks and citation omitted). Respondent-mother's physical abuse of CP is, therefore, probative of how she may treat BMP. Furthermore, respondent mother testified at the evidentiary hearing that she did not believe that she has ever had "temper issues or anger management issues" that were directed "toward[] her kids," and that the abuse of CP occurred because she was angry with CP's father. This explanation, or justification, of the abuse inflicted upon CP is concerning. It is likewise concerning that when respondent-mother was offered

services in relation to the pending termination of her second child, CE, caseworkers from the DHHS expressed concern regarding respondent-mother's apparent agitation and irritation toward CE when CE would cry or fuss. Ultimately, respondent-mother failed to benefit from services that would have led to the reunification.¹

Based on the foregoing, respondent-mother's past behavior is the best predictor of future injury to BMP. Accordingly, the trial court did not err in concluding that there were grounds under MCL 712A.19b(3)(b)(i) to terminate respondent-mother's parental rights.

Respondent-mother also challenges termination of her parental rights under MCL 712A.19b(3)(i), (j), and (k)(iii)-(v). However, only one statutory ground need be proven to terminate a respondent's parental rights. *In re Trejo*, 462 Mich 341, 360; 612 NW2d 407 (2000), superseded on other grounds as stated in *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013). Accordingly, this Court need not address respondent's remaining arguments relating to statutory grounds for termination.²

Affirmed.

/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly
/s/ Stephen L. Borrello

¹ We also note that there was testimony indicating that during the pendency of these proceedings, petitioner had conducted a home visit of respondent-mother's home. Child Protective Services (CPS) investigators found the home to be in disarray, unclean, and full of used dog training pads. During the termination hearing, respondent-mother admitted that her current living situation would be unsuitable for BMP.

² We note that although not raised in her statement of questions presented, respondent-mother cursorily argues in her brief on appeal that termination of her parental rights was not in the best interests of BMP, and that respondent-mother should have been offered services by petitioner prior to termination of her parental rights. However, because respondent-mother failed to raise these issues in her statement of questions presented, this Court need not and will not address those arguments. MCR 7.212(C)(5).