

STATE OF MICHIGAN
COURT OF APPEALS

In re DURHAM/ERICKSEN, Minors.

UNPUBLISHED
April 23, 2020

No. 350585
Kent Circuit Court
Family Division
LC No. 18-050217-NA; 18-
050218-NA; 18-050219-
NA

Before: GADOLA, P.J., and STEPHENS and SHAPIRO, JJ.

PER CURIAM.

Respondent-father appeals the trial court order terminating his parental rights to the three minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.¹

In April 2018, respondent was adjudicated as unfit to parent because of issues with housing, substance abuse, parenting skills, and lack of employment. The Department of Health and Human Services provided respondent with a multitude of services to rectify the conditions that brought the children into care, yet respondent failed to make significant progress on any of the barriers to reunification. In August 2019, the trial court found clear and convincing evidence to terminate respondent's parental rights under multiple statutory grounds and that termination was in the children's best interests.

Respondent argues that the trial court erred when it found that termination of his parental rights was in the children's best interests in light of the bond between him and the children.² We disagree.

¹ Respondent-mother's parental rights were also terminated, but she is not a party to this appeal.

² Respondent does not dispute the satisfaction of the statutory grounds for termination. We note that MCL 712A.19b(3)(c)(i) (failure to rectify conditions that lead to adjudication) was satisfied by clear and convincing evidence in light of the respondent's failure to address the housing,

We review for clear error a trial court's decision regarding the child's best interests. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013).

Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court must find that termination is in the child's best interests before it can order termination of parental rights. MCL 712A.19b(5). The petitioner must prove by a preponderance of the evidence that termination of parental rights is in the child's best interests. *In re Moss*, 301 Mich App at 90. In determining the child's best interests, "the court should consider a wide variety of factors that may include the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014) (quotation marks and citations omitted). The trial court may also consider the length of time the child was in foster care, the likelihood that "the child could be returned to her parent's home within the foreseeable future, if at all," and compliance with the case service plan. *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012).

In this case, the trial court's best-interest analysis addressed the parent-child bond; respondent's parenting ability; the children's need for permanency, stability, and finality; and the advantages of the foster home over respondent's home. The court acknowledged that there was "clearly" a bond between respondent and the children, but it had been "damaged" because of respondent's parenting ability. The court relied on the testimony that when respondent would give tearful goodbyes during parenting-time visits, one of the children had been observed to "kind of back away, and not really want to be involved." The child had discussed her concerns about her father being in jail, and when respondent did not show up for appointments, she asked questions and was disappointed. The children loved respondent and had a bond with him, but that bond had been weakened since the children had been placed into foster care for a significant period. Additionally, the court noted that respondent had "missed 50 parenting times and sleeps during the parenting time."

Next, the trial court addressed respondent's ability to parent. The court again relied on the testimony indicating that respondent's parenting ability was "severely in question." Respondent did not have adequate parenting skills and had made very little progress with the parent-agency agreement. Respondent continued to have substance abuse issues throughout this case and had not shown any period of sobriety. Additionally, despite the referrals for services that had been made, respondent failed to address the children's behavioral issues.

The trial court also found that all three children had a definite need for permanency, stability, and finality. The court stated that there was a clear advantage of the foster homes over respondent's home, demonstrated by respondent's inability, unwillingness, or refusal to comply

substance abuse, parenting skills, and employment issues that caused the children to be placed in care. We decline to address MCL 712A.19b(3)(g) and (j) because only one statutory ground for termination is required. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).

with the case service plan. The foster parents were able to provide the children's basic needs of food, clothing, and shelter, which respondent was not; respondent was still homeless. The court noted that despite the children's behavioral issues, which the foster homes were addressing, there was a distinct possibility for adoption. Additionally, the court found that there was no indication that the children could be returned to respondent's care within a reasonable amount of time considering that the case had been ongoing for "almost 20 months," and no progress had been made.

In sum, after considering the pertinent factors and the multiple parental issues that had not been resolved, the court found termination of respondent's parental rights was in the children's best interests. We find no clear error in that determination.

Affirmed.

/s/ Michael F. Gadola
/s/ Cynthia Diane Stephens
/s/ Douglas B. Shapiro