

STATE OF MICHIGAN
COURT OF APPEALS

In re SANDERSON, Minors.

UNPUBLISHED

July 30, 2020

No. 351835

St. Clair Circuit Court

Family Division

LC No. 18-000123-NA

Before: FORT HOOD, P.J., and JANSEN and TUKEL, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to her children, JKSS and JS, under MCL 712A.19b(3)(c)(i) (the conditions that led to adjudication continue to exist), (c)(ii) (failure to rectify other conditions), and (g) (failure to provide proper care or custody). Respondent argues on appeal that the trial court clearly erred by terminating her parental rights under MCL 712A.19b(3)(c)(i) and (ii), and (g). Respondent also argues that the trial court erred by finding that the termination of her parental rights was in the best interests of JKSS and JS. We affirm.

I. FACTUAL BACKGROUND

Petitioner, the Department of Health and Human Services (DHHS), filed a petition to terminate respondent’s parental rights because respondent medically and physically neglected JKSS and JS by failing to provide the children with proper care and custody and appropriate housing. After an evidentiary and termination hearing, the trial court terminated respondent’s parental rights to JKSS and JS because respondent failed to rectify the conditions which led to adjudication. Among other things, the trial court held that, despite obtaining housing, respondent failed to demonstrate that she could maintain her housing and failed to demonstrate that she could provide JKSS and JS proper care and custody. The trial court also concluded that the termination of respondent’s parental rights was in the best interests of the children because respondent failed to demonstrate that she would be able to provide the children with permanency and stability.

II. STATUTORY GROUNDS

Respondent first argues that the trial court erred in finding that statutory grounds existed to terminate her parental rights under MCL 712A.19b(3)(c)(i) and (ii), and (g). We disagree.

This Court reviews the trial court's factual findings regarding statutory grounds for termination of parental rights and the decision to terminate parental rights for clear error. MCR 3.977(K); *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A finding is clearly erroneous if this Court is "left with a definite and firm conviction that a mistake has been made." *Id.* (quotation marks and citations omitted). To be clearly erroneous, a trial court's determination must be more than possibly or probably incorrect. *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011). The petitioner for the termination of parental rights bears the burden of proving by clear and convincing evidence at least one statutory ground for termination. MCR 3.977(A)(3); MCR 3.977(E)(3); MCR 3.977(F)(1)(b); MCR 3.977(H)(3)(a).

Termination of parental rights is appropriate under MCL 712A.19b(3)(c)(i) when:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . .

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

The trial court terminated respondent's parental rights under MCL 712A.19b(3)(c)(i) because more than 182 days had elapsed since the initial dispositional order was issued and respondent failed to rectify the conditions—namely respondent's housing and ability to provide proper care and custody—that led to the adjudication. The court further concluded that there was no reasonable likelihood respondent would rectify the issues within a reasonable time. We discern no clear error from either conclusion.

This case was initiated in March 2018. After numerous referrals and pressure from respondent's foster-care specialist and the trial court, respondent finally obtained housing in July or August 2019. To obtain this housing, respondent sought funds from DHHS's Family Reunification Fund, the Blue Water Community Action Agency, and from the community. Respondent's request for \$1,200 from the Family Reunification Fund was denied, but respondent obtained \$175 from community donations, and the Blue Water Community Action Agency paid a portion of respondent's security deposit and first month's rent. After obtaining the housing with the help of donations, respondent failed to demonstrate that she would be able to maintain it by providing receipts of rent or utility payments, or by verifying her employment. Similarly, although respondent initially benefited from parenting-education classes and earned unsupervised parenting time with the minor children, that parenting time was revoked after respondent began to regress. Respondent could not consistently pass drug screens, could not maintain healthy boundaries with the minor children, and could not provide the children with structure or redirection whatsoever. As respondent relapsed, she failed to consistently participate in the services offered to her.

It should also be noted that, at the time of termination, JKSS was six years old and JS was three years old. These proceedings spanned more than 17 months and, besides obtaining housing, respondent made little to no progress over that period of time. With all of that in mind, we cannot discern error in the trial court's conclusion that respondent failed to rectify the conditions that led to adjudication, and that there was no reasonable likelihood that respondent would be able to rectify

the conditions which led to adjudication within a reasonable period of time. Termination was therefore appropriate under MCL 712A.19b(3)(c)(i). Because termination was appropriate under MCL 712A.19b(3)(c)(i), we need not address the other two factors that served as the basis of the termination of respondent's parental rights. See *In re Ellis*, 294 Mich App at 32 (a petitioner need only establish one statutory ground by clear and convincing evidence to terminate a respondent's parental rights).

III. BEST-INTERESTS DETERMINATION

Respondent next argues that the trial court erred when it found, by a preponderance of the evidence, that termination of respondent's parental rights was in the best interests of JKSS and JS. We again disagree.

As with statutory grounds for termination, this Court reviews a trial court's decision regarding a child's best interests and the decision to terminate parental rights for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000), superseded by statute on other grounds as recognized in *In re Moss*, 301 Mich App 76, 83 (2013). "A finding is 'clearly erroneous' if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459, 781 NW2d 105 (2009). Where the court has determined, by clear and convincing evidence, that one or more statutory grounds exist under MCL 712A.19b(3), it must order termination of parental rights unless it finds that termination is clearly not in the best interests of the children. MCL 712A.19b(5); *In re Ferranti*, 504 Mich 1, 16; 934 NW2d 610 (2019). The petitioner bears the burden to establish by a preponderance of the evidence that termination is in the best interests of the child. *In re Gonzales/Martinez*, 310 Mich App 426, 434; 871 NW2d 868 (2015), citing MCL 712A.19b(5) and *In re Moss*, 301 Mich App at 90. "In deciding whether termination is in the child's best interests, the court may consider 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 Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted).

As noted by the trial court, JKSS's and JS' lives were marked with instability. JKSS was only briefly in respondent's care, was left with family and friends without proper care and custody, and was in petitioner's custody for over 17 months. Similarly, JS was only in respondent's care for two months. As a result of the instability in their lives, JKSS and JS suffered behavioral problems. At the same time, respondent gave no indication that she would be able to provide permanent housing for the children, that she could maintain employment, or that she could consistently pass drug screens. And, while we note respondent's assertion that the trial court overlooked her bond with JKSS and JS, we also note that a child's bond with a parent is only one factor in the best-interests analysis. *In re White*, 303 Mich App at 714. In this case, the trial court did not clearly err in determining that whatever bond respondent maintained with the children did not outweigh the children's need for permanency and stability, particularly in light of their young ages.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Kathleen Jansen

/s/ Jonathan Tukel