STATE OF MICHIGAN

COURT OF APPEALS

In re O. HERBERT, Minor.

UNPUBLISHED
September 10, 2020

No. 352526
Sanilac Circuit Court
Family Division
LC No. 18-036231-NA

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

PER CURIAM.

Respondent-mother appeals by right the trial court's order terminating her parental rights to her minor child, OH, under MCL 712A.19b(3)(c)(*i*) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (likelihood of harm if returned to the parent). We affirm.

I. STATUTORY GROUNDS FOR TERMINATION

Respondent-mother first argues that the trial court erroneously found clear and convincing evidence existed to terminate her parental rights under MCL 712A.19b(3)(c)(*i*), (g), and (j). We disagree.

We review a trial court's findings that grounds for termination have been established under the clearly erroneous standard. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). A trial court's decision must be more than maybe or probably wrong in order for this court to determine that it is clearly erroneous. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 529 (1999). This Court will give deference to the special opportunity of the trial court to judge the credibility of the witnesses who appear and testify before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

"To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). "Only one statutory ground need be established by clear and convincing evidence to terminate a respondent's parental rights, even if the court erroneously

found sufficient evidence under other statutory grounds." *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

In this case, the trial court found that terminatation of respondent-mother's parental rights was warranted under MCL 712A.19b(3)(c)(*i*). Termination is appropriate under MCL 712A.19b(3)(c)(*i*) where clear and convincing evidence establishes:

> (3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:
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> * * *
>
> (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 either of the following:
>
> (*i*) The conditions that lead 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.

OH came under the trial court's jurisdiction in August 2018 because respondent-mother lacked suitable housing for herself and OH, respondent-mother had physically neglected OH, and OH had witnessed domestic violence incidents involving respondent-mother in the home. When OH was removed from respondent-mother's care, petitioner, the Michigan Department of Health and Human Services (the DHHS), observed that the home had "an immense smell of urine," dirty clothes littered the floor, dirty dishes and old food had been left out, and garbage was scattered throughout the house. A pill bottle had also been left within OH's reach, and OH was observed to have bruises and possible cigarette burns on his body. Respondent-mother admitted that ongoing domestic violence in the home had affected her ability to properly supervise OH and ensure his safety.

At the time of termination in January 2020, OH had been removed from respondent-mother's case for roughly 18 months. During this time, he had been placed with his maternal grandfather and step-grandmother and was thriving. Although respondent-mother had attended counseling and completed some services, she failed to obtain and maintain suitable housing. Respondent-mother had moved multiple times and at the time of termination was living with her boyfriend. While respondent-mother's boyfriend's home was technically appropriate, petitioner could not allow OH to return there because respondent-mother's boyfriend had a history with Child Protective Services (CPS), a division of the DHHS. Respondent-mother had earned unsupervised parenting time during the pendency of this case; however, it went back to being supervised after respondent-mother brought several unapproved males to her visits with OH, including men who had histories of CPS involvement. Respondent-mother also missed several parenting time visits in mid-to-late 2019, and did not attempt to contact OH during this time. Finally, respondent-mother testified that as of the time of termination, she had no income and was having difficulty finding a job as a result of two prior domestic violence convictions.

On the basis of the foregoing, we conclude that the trial court did not err in concluding that clear and convincing evidence established that the conditions that lead to the adjudication continued to exist, and therefore statutory grounds existed to terminate respondent-mother's parental rights under MCL 712A.19b(3)(c)(*i*).

Because the trial court properly found that statutory grounds existed to terminate respondent-mother's parental rights under MCL 712A.19b(3)(c)(*i*), this Court need not address respondent-mother's additional challenges to termination of her parental rights under MCL 712A.19b(3)(g) or (j). *In re Ellis*, 294 Mich App at 33.

II. BEST INTERESTS

Respondent-mother also argues that it was not in the best interests of OH to terminate her parental rights. Again, we disagree.

A trial court's finding that termination of a respondent's parental rights is in the best interest of the minor children is reviewed by this Court for clear error. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

"Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interest before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App at 35. See also MCL 712A.19b(3)(5). The inquiry should focus on the child, not the parent. *In re Moss*, 301 Mich App at 76. "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *Id*. at 87. "The trial court should weigh all the evidence available to determine the children's best interests." *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). Factors appropriately considered by the trial court include "the child's bond to the parent, the parent's parenting ability, [and] the child's need for permanency, stability, and finality . . . ." *In re Olive/Metts*, 297 Mich Ap pat 41-42 (citation omitted).

In determining that termination of respondent-mother's parental rights was in OH's best interests, the trial court noted that OH could not wait indefinitely for respondent-mother to get herself together. OH was bonded with his grandfather and step-grandmother who continued to provide OH with stability. OH continued to act out during his parenting time visits with respondent-mother, and the bond between them was minimal.

We conclude that these findings are supported by a preponderance of the evidence. As discussed, respondent-mother completed some services, but failed to obtain or maintain suitable housing, failed to obtain employment or income, and continued to engage in relationships with men who had histories of CPS involvement. Additionally, respondent-mother's parenting time visits digressed from unsupervised to supervised, and during those visits OH would cling to his step-grandmother. OH and respondent-mother did not have much meaningful interaction during parenting time visits. Comparatively, OH was thriving in his placement with his grandfather and step-grandmother. Over the 18 months he had been in this placement, OH had gone from not speaking to verbalizing, responded to his name, had a good relationship with his extended family, and was flourishing in a head start program. OH had a bedroom at his grandparents' home, and they were interested in adopting OH.

OH is entitled to permanency, stability, and finality, which, on the basis of the foregoing, respondent-mother is incapable of providing. In comparison, OH is thriving in his placement with his grandfather and step-grandmother, and is preadoptive. Thus, we conclude that the trial court did not err in concluding that termination of respondent-mother's parental rights was in the best interests of OH.

Affirmed.

/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly
/s/ Thomas C. Cameron