STATE OF MICHIGAN

COURT OF APPEALS

In re C. MICHALIK, Minor.

UNPUBLISHED
March 18, 2021

No. 354399
Roscommon Circuit Court
Family Division
LC No. 18-723897-NA

Before: BORRELLO, P.J., and BECKERING and SWARTZLE, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating his parental rights to the minor child, CM, under MCL 712A.19b(3)(c)(*i*) (conditions that led to adjudication continue to exist), (c)(*ii*) (failure to rectify other conditions), and (j) (reasonable likelihood of harm if returned to parent).[1] We affirm.

I. BACKGROUND

In February 2018, the Department of Health and Human Services (DHHS) filed a petition requesting that CM be removed from respondent's care on the basis that respondent could not provide proper care and custody of CM because he was incarcerated. The trial court agreed and removed CM from respondent's care.

Respondent was released from jail in June 2018. Initially, respondent exercised supervised-parenting-time visits one time per week, which increased to two times per week because he was living near the agency. At some point before January 2019, respondent moved to Saginaw to live with his brother. Respondent missed parenting-time visits for approximately six weeks because he did not have independent transportation, but he did not inform DHHS that transportation was an issue. When respondent resumed his parenting-time visits, the length of each visit was gradually increased until each visit was approximately 1½ to 2 hours long.

[1] During the course of the proceedings, the trial court also terminated the parental rights of CM's mother. She is not a party to this appeal.

DHHS eventually moved respondent's visits to his home to observe whether respondent could properly parent CM in a home environment. At the termination hearing, respondent's parent-education supervisor testified that during one home visit, CM approached the stairs that led up to respondent's apartment. When the supervisor told respondent that he needed to watch the child and make sure that she stayed away from the stairs, respondent picked up the child and placed her by the stairs. The supervisor again told respondent that he could not have the child by the stairs, and respondent again walked CM to the stairs. When the supervisor told respondent that he should not allow CM near the stairs because she was only one year old, respondent told her, "Well, she's almost two." The supervisor believed that respondent's actions were purposefully defiant.

The supervisor also testified that during a home visit approximately two weeks later, when respondent was putting in a VCR tape for CM, the child found a bottle of Clorox cleaner in a kitchen cabinet and was trying to spray the cleaner in her mouth. The supervisor had previously told respondent to put child-safety locks on that cabinet, and to child-proof the electrical outlets in his home, but respondent never did so. When the supervisor confronted respondent about the cleaner incident, he "didn't really respond" and simply stated that he did not think CM got any cleaner in her mouth. Although the supervisor did not believe that CM got any cleaner into her mouth, she testified that CM had cleaner on her face and body.

Respondent's home visits were eventually moved back to DHHS because during his last home visit, respondent became very upset when the supervisor told respondent that he should not lie with CM when she was going to take a nap. The supervisor attempted to show respondent how to redirect CM when she threw a temper-tantrum, but respondent was "very adamant" and told the supervisor that he did not believe "a woman should tell a man what to do." Because of safety concerns, respondent's visits were moved back to DHHS. In February 2020, respondent's visits were suspended. During respondent's last visit at the agency, respondent was "very upset"; he called the supervisor "Satan" and accused her of "telepathically manipulating" the child "through the window or through the walls." In addition, he had told the child that her foster parents were "evil" and that she should not talk to them.

At a statutory review hearing before the referee, respondent was "yelling" and respondent was held in contempt of court for "disobedience in the courtroom" and "impeding function of the Court." At the time, the referee noted that "[t]he incident in the courtroom wasn't the only time that [respondent] lost his temper." The DHHS workers also testified that respondent displayed a defiant attitude, that he made only minimal progress in his parenting skills, and that he did not benefit from the services that he received during the pendency of the case. One caseworker testified that whenever someone tried to help respondent, he "was argumentative and was always fighting against it . . . he didn't want to just hear what you had to say and work with you." Another caseworker testified that "often when you speak to him about needing improvements he gets defensive and becomes difficult to talk to," and that respondent "wasn't receptive to a lot of help and . . . he sometimes didn't believe that he was doing things wrong." Respondent also told a DHHS worker that he did not "believe in parenting" because he "just thought you learn as you go," and "parenting was something he could figure out on his own." Over the life of the case, there were periods of time when respondent did not attend parenting-time visits, and he explained that he had to cancel those visits because he was "getting himself together." Meanwhile, when the DHHS wanted to extend the duration of his parenting-time visits, respondent responded that the visits were already too long, and he declined to exercise the additional time offered. The referee

found, at several different hearings, that respondent had made "minimal progress" in developing his parenting skills.

The trial court terminated respondent's parental rights on July 20, 2020. This appeal followed.

II. ANALYSIS

Respondent argues that the trial court erred when it found statutory grounds to terminate his parental rights. "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 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 Schadler*, 315 Mich App 406, 408; 890 NW2d 676 (2016) (cleaned up).

Contrary to respondent's argument, the trial court did not err by terminating his parental rights under MCL 712A.19b(3)(j). Termination under MCL 712A.19b(3)(j) is proper when "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent."

Here, respondent's conduct during and following the incidents involving the stairs and cleaner demonstrate that CM would be at a risk of harm if returned to respondent's care. Respondent not only failed to supervise CM during these incidents, but he did not appear to believe that these incidents presented a risk of harm to CM's safety. When the supervisor told respondent that he should not allow CM near the stairs because she was only one year old, respondent told her, "Well, she's almost two." Further, when the supervisor confronted respondent about the cleaner incident, he "didn't really respond" and simply stated that he did not think CM got any cleaner in her mouth. The trial court did not clearly err by finding that these two incidents demonstrated that CM would be at a risk of harm if returned to respondent's care.

In addition, respondent's argumentative and defiant attitude also showed that the child would be at risk if returned to his home. Rather than accept constructive criticism and learn from it, respondent rejected it. Respondent also displayed a hostile attitude toward women in a position of authority, such as the DHHS supervisor. Respondent's behavior during the pendency of this case strongly suggests that, were he to receive constructive criticism from physicians, teachers, and others in the future, he would not react well to it, resulting in a risk of harm to the child.

Overall, we are not left with a definite and firm conviction that a mistake has been made with respect to the trial court's determination that termination was proper under MCL 712A.19b(3)(c)(j). Because only one statutory ground is required to terminate a respondent's parental rights, we need not address respondent's argument that the trial court erred by terminating his parental rights under MCL 712A.19b(3)(c)(*i*) and (c)(*ii*). See *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012).

Affirmed.

/s/ Stephen L. Borrello
/s/ Jane M. Beckering
/s/ Brock A. Swartzle