

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
April 17, 2012

In the Matter of OTTO, Minors.

No. 305896
Jackson Circuit Court
Family Division
LC No. 10-001420-NA

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Before: FORT HOOD, P.J., and CAVANAGH and K. F. KELLY, JJ.

PER CURIAM.

In this consolidated appeal, respondents appeal as of right the trial court's termination of their parental rights under MCL 712A.19b(3)(c)(i), (c)(ii), (g), (j), and (l). We affirm.

The trial court did not err in concluding that one or more of the statutory grounds for termination of respondents' parental rights were established by clear and convincing evidence. See MCR 3.977(K); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). The conditions leading to the adjudications on July 20, 2010, and October 12, 2010, were respondents' homelessness, lack of employment and financial resources, poor parenting skills, respondent father's bipolar disorder, and respondent mother's mental health issues and personality disorder, which constituted failure to provide proper care for the minor children. Respondents' parental rights to another child were terminated in Oklahoma on April 9, 2010, but termination was not sought at the initial disposition and respondents were provided reunification services, and more than 182 days elapsed between the dispositions and the termination hearing.

In considering termination under § 19b(3)(l), the trial court recognized that respondents' level of progress since their previous termination in Oklahoma was at issue. The court questioned respondents regarding the facts surrounding their child's removal in Oklahoma, as well as the services they were provided in that case. The court noted that conditions giving rise to the Oklahoma proceeding were substantially the same as conditions leading to adjudication in the present case. And respondents still had not rectified those conditions during this proceeding.

The trial court did not err in finding that the Oklahoma termination order provided clear and convincing evidence to terminate respondents' parental rights in this case pursuant to § 19b(3)(l).

Additionally, the trial court did not err in terminating respondents' parental rights under §§ 19b(3)(c)(i), (g), and (j). The trial court did not base termination on conditions of housing or respondents' lack of financial means, noting those could improve over time. The primary issues were respondents' inability to appropriately parent the children and learn proper parenting techniques, given their mental health issues. Respondents were compliant with most elements of their parent agency treatment plans, but benefit from services and not mere participation was needed to rectify respondents' parenting deficits. The evidence showed respondent mother's personality disorder led to her being abrasive in interactions with the children and others, as well as inflexible and controlling. The disorder also caused her to question parenting information presented, not recognize the children's cues, miss nuances of parenting instruction, and delight in arguing and trying to manipulate others. In essence, it impaired her ability to benefit from parenting instruction, and was a chronic, pervasive disorder that was not open to a cure. At the time of the termination hearing, respondent mother required six months to a year of additional cognitive or dialectical behavioral therapy.

Respondent father's bipolar disorder was treated during the Oklahoma proceeding and for the last seven months of this proceeding. However, evidence related to his parenting during visits with the children showed that his parenting skills did not improve appreciably, and that he often fell asleep during visits. Although both respondents reported improvement in their behaviors as a consequence of counseling, and others described some improvement in respondent mother's temperament, the trial court noted that neither respondent had even met the basic threshold of admitting that their parenting deficits had caused the children's removal.

In light of the evidence presented we do not have a definite and firm conviction that the trial court, who observed respondents and the witnesses, clearly erred in concluding that there was no reasonable likelihood that respondents would rectify the conditions of adjudication and become able to properly care for the children within a reasonable time. See *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondents had not been able to properly care for the children during this year-long proceeding and, in essence, since November of 2008 when the Oklahoma proceeding commenced. And given the chronic, pervasive, permanent nature of their disorders, the necessary changes are unlikely to occur within a reasonable time.

The trial court did not specify the other condition it considered in relying on § 19b(3)(c)(ii) to terminate respondents' parental rights, but because only evidence of one statutory ground is required for termination, it is not necessary to address that subsection. See *In re KMP*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Finally, the trial court did not err in concluding that termination of respondents' parental rights was in the children's best interests. See MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evidence showed that respondents loved their children and demonstrated some positive interaction at visits. The fact that the younger child was removed at birth made her lack of a bond with respondents understandable. But contrary to respondent mother's assertion on appeal, the evidence did not show that she desperately tried to bond with that child; rather, she interacted little with her at visits. The evidence showed the older child

resisted visiting with respondents, clung to the foster mother and cried, and acted out afterward. The trial court did not make separate best interests findings, but evidence on the whole record may be considered in determining best interests, *Trejo*, 462 Mich at 353, and the very comprehensive findings of fact support the trial court's conclusion that termination was in the children's best interests. Respondents were not reasonably expected to be able to provide the children with proper care within a reasonable time.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Mark J. Cavanagh

/s/ Kirsten Frank Kelly