

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 21, 2012

In the Matter of WILSON, Minors.

No. 307023
Kent Circuit Court
Family Division
LC Nos. 10-051249-NA
10-051250-NA

In the Matter of WILSON, Minors.

No. 307256
Kent Circuit Court
Family Division
LC No. 10-051249-NA
10-051249-NA

Before: DONOFRIO, P.J., and MARKEY and OWENS, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court orders terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), and regarding respondent-father only, MCL 712A.19b(3)(a)(ii). We affirm.

This Court reviews the trial court's findings of fact in termination proceedings for clear error. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005). "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 BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19(b)(5).

The trial court did not clearly err in finding statutory grounds were established to terminate both respondents' parental rights. The issues that led to adjudication included respondent-mother leaving the minor children, then aged five and twelve, home alone, her relapse into cocaine use, and her noncompliance with treatment for anxiety attacks and bipolar

disorder. Throughout the proceedings, respondent-mother made some progress and would then relapse. This occurred with her cocaine use, investment in therapy, and compliance with taking her mental health medications. Respondent-mother tested positive for cocaine in a hair follicle test almost a year and a half after the minor children had been removed from her care. Her case manager observed her to be overmedicated just before the second date of the termination hearing and observed a crack pipe in her bedroom.

Although respondent-mother made some progress with her treatment plan, her continued use of cocaine and her noncompliance with medications to treat her anxiety and bipolar disorder continued throughout the proceedings. Respondent-mother's therapist, who testified regarding the progress she made, was unaware of respondent-mother's continued drug use but stated he would be concerned if she had continued to use drugs. At the time of the termination hearing, respondent-mother had been recently diagnosed with diabetes and had exhibited difficulty managing it. When she ran out of test strips, she took her insulin when she felt like it. Obviously, respondent-mother was unable to care for her own needs, much less the needs of her two minor children. Clear and convincing evidence established the statutory grounds to terminate respondent-mother's parental rights.

With regard to the children's best interests, there was no question that a bond existed between respondent-mother and her children. The children, however, deserved to live in a home in which they were safe and stable and in which their well-being was a priority. Respondent-mother could not take care of her own physical and mental health and had not fully addressed her substance abuse. Being unable to take care of herself, she could not provide for her children, a fact that far outweighed the bond between respondent-mother and her children. The trial court did not clearly err in its best-interest determination.

The trial court also did not clearly err in terminating respondent-father's parental rights. Respondent-father did not appear at any of the hearings, despite having notice of them. Although he was provided with supervised parenting time and had been offered assistance with transportation, he did not attend any parenting time with the minor children. He had very limited contact with the caseworkers and did not sign any of the documents requested of him, including the initial parent questionnaire and the parent/agency agreement, despite his promise to do so. He had telephone contact with the minor children during parenting time but did not always answer his phone and, over time, the minor children did not ask to phone him. He did want to plan for the minor children and wanted respondent-mother to care for them.

Although the trial court erred with respect to MCL 712A.19b(3)(c)(i) because the issues that led to adjudication did not have anything to do with respondent father, and possibly with respect to MCL 712A.19b(3)(a)(ii), because it is not clear that a 91-day period passed with no contact between respondent-father and the children, any error was harmless because the trial court only needed to find clear and convincing evidence with respect to one statutory subsection. The other statutory grounds were established by clear and convincing evidence. Respondent-father did not want to care for his children and wanted respondent-mother, who had unresolved substance abuse and mental health issues, to care for them. Having failed to engage in a treatment plan, participate in services, or regularly participate in parenting time, respondent-father was unprepared to care for the children and was unlikely to be able to care for them within a reasonable time.

Respondent-father argues that he was confused because there were four different caseworkers and he did not understand the letters that were sent to him. However, respondent-father did nothing to get the information he needed. Mallory Egolf, who was the caseworker from July 2010 through March 2011, and Maggie Davis, who was the caseworker from March 2011 through the termination hearing, both testified regarding their communications with respondent-father and unsuccessful efforts to engage him in the court case. Respondent-father's attempt to blame the caseworkers rather than take responsibility for his own actions and inactions only strengthens the argument in favor of termination of his parental rights.

Affirmed.

/s/ Pat M. Donofrio

/s/ Jane E. Markey

/s/ Donald S. Owens