

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 18, 2012

In the Matter of KERR/SHERROD/VAN
HORN/PAYMON, Minors.

No. 310423
Wayne Circuit Court
Family Division
LC No. 10-491740-NA

Before: STEPHENS, P.J., and OWENS and MURRAY, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interests of the children. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 633. A finding is clearly erroneous if, 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 JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); MCR 3.902(A); *Miller*, 433 Mich at 337.

Termination of parental rights was proper under MCL 712A.19b(3)(c)(i) and (g). At the time of the adjudication, respondent did not have enough beds or appropriate clothing for her children. She had not provided proper medical care for her son who suffered from seizures. Respondent also had a gambling problem. By the time of the termination hearing, respondent was still without appropriate housing, living with relatives and in arrears on her DTE bill. She had not demonstrated that she had overcome her gambling addiction or that she could provide her children with appropriate clothing, bedding, or food. Respondent also failed to show a commitment to meeting her son's medical needs because she did not participate in his medical appointments.

Respondent argues that she completed parenting classes; however, the evidence shows that she failed to benefit from the classes. A parent must benefit from services to the point where the child would no longer be at risk in the parent's custody. *In re Gazella*, 264 Mich App 668,

676; 692 NW2d 708 (2005). Here, the risks that brought the children to the court's attention continued. When the children were all together during visits, respondent was unable to adequately supervise and manage them. Although respondent informed the caseworker that she had been attending Gamblers Anonymous, by the time of the permanent custody hearing there was reason to believe that her gambling problem had resurfaced. She was found with a casino card and she was unable to account for a \$1075 withdrawal from her bank account. By respondent's own admission she was not good at managing her finances. But, given respondent's history of gambling problems, her outstanding DTE bill and lack of housing suggested that more than just bad money management was involved.

Ultimately, the evidence showed that respondent could not provide for her children's financial needs. Contrary to respondent's assertions, she had not addressed the issues that brought the children to the trial court's attention and there was no evidence that she would be able to address these issues within a reasonable time. Respondent's prognosis for appropriately parenting her children was assessed as "poor" and "guarded" by an evaluating psychologist. Because respondent had not addressed the issues that had brought the children into care and was unable to demonstrate that she could provide them with proper care and custody, termination of parental rights was proper under MCL 712A.19b(3)(c)(i) and (g).

Termination of parental rights was also proper under MCL 712A.19b(3)(j) because the children would likely be at risk of harm in respondent's care. Respondent continued to be involved with Paymon, the father of some of her children, even after her children accused him of physical and sexual abuse. Respondent never demonstrated a willingness to protect her children and instead suggested they had been coerced into making accusations against Paymon. Respondent argues that Paymon's absence from her home eliminated the risk of his ability to harm the children. However, her assertion overlooks the evidence that she had been untruthful about her continuing involvement with him. The evidence demonstrated that respondent allowed Paymon to have access to her children and live in her home despite the court order prohibiting his contact with them.

Respondent repeatedly demonstrated poor parental judgment regarding Paymon by maintaining a relationship with him, allowing him access to her children, and being dishonest about the relationship. Respondent lacked the capacity to recognize signs of danger given that her children informed her of the abuse, the abuse was confirmed to multiple adults, and the children exhibited behavioral issues seen in victims of abuse. Parental rights may be terminated on the basis of neglect where a parent permits an environment to continue where the children will likely be abused. *In re Rinesmith*, 144 Mich App 475, 483; 376 NW2d 139 (1985). Given that there was no evidence that respondent had ended her relationship and contact with Paymon, the children were likely to be harmed if returned to her care. Thus, termination of parental rights under MCL 712A.19b(3)(j) was proper.

The trial court also did not err in finding that termination of respondent's parental rights was in the best interests of her children. MCL 712A.19b(5). Respondent had not demonstrated that she could maintain a stable and safe home environment for the children. It is in the children's best interests to be raised in a home where their needs for clothing, shelter, and safety can be met. Further, respondent did not demonstrate a commitment to put her children's needs before her own. Instead of addressing her gambling addiction, learning appropriate parenting

techniques, and establishing a safe environment, she was unable to account for her spending or to manage her children, and she maintained a relationship with Paymon, a man who was a danger to her children. Despite respondent's assertions, her bond with her children and her love for them does not provide enough justification to maintain the relationship. This bond will not protect them from abuse or make sure they are properly cared for.

These young children require permanence and stability, which respondent was unable to provide. Because respondent was unable to meet her minimal parental responsibilities, the needs of her children must prevail over her desire to parent them. *In re Terry*, 240 Mich App 14, 28; 610 NW2d 563 (2000). Given the young ages of the children, their need for permanence, and respondent's inability to achieve stability in the reasonably near future, termination of parental rights was the only feasible option. Thus, the court did not err in its best-interest determination.

Affirmed.

/s/ Cynthia Diane Stephens
/s/ Donald S. Owens
/s/ Christopher M. Murray