

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
January 15, 2013

In the Matter of M. MEYERS, Minor.

No. 310718
St. Clair Circuit Court
Family Division
LC No. 11-000449-NA

Before: TALBOT, P.J., and WILDER and STEPHENS, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to her minor child (d/o/b December 19, 2011) pursuant to MCL 712A.19b(3)(g),(i), and (j).¹ We affirm.

I. BASIC FACTS

Previously, respondent had four children and voluntarily relinquished her parental rights to them because of her persistent substance abuse problems. The minor child in this case was born with cocaine, morphine, and marijuana in her system. Respondent claimed that she was doing better with her drug problem by attending meetings and going through inpatient treatments, but she admitted to relapsing prior to the child's birth. Petitioner, Michigan Department of Human Services, removed the child from respondent's care and custody directly after birth. Petitioner immediately filed a petition to terminate respondent's parental rights to the child. Following a bench trial, the trial court entered an order permanently terminating respondent's parental rights pursuant to MCL 712A.19b(3)(g), (i) and (j).

II. ANALYSIS

In a case regarding the termination of parental rights, a petitioner must establish a statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3). Only one statutory ground need be proven in order to terminate parental rights. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). This Court reviews both the lower court's factual

¹ The parental rights of the putative father were also terminated but he has not appealed that decision.

findings and its ultimate decision whether a statutory ground has been proven for clear error. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). “A finding is clearly erroneous [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.” *Id.* (citations and quotations omitted).

Once a statutory ground for termination has been proven, the court shall order termination of parental rights if it finds “that termination of parental rights is in the child’s best interests[.]” MCL 712A.19b(5). This Court reviews for clear error a lower court’s findings with regard to whether termination was in the best interest of the child. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

A. STATUTORY GROUND FOR TERMINATION

The lower court terminated respondent’s parental rights under, inter alia, MCL 712A.19b(3)(g), which authorizes termination if:

The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.

Respondent argues that a basis for termination under this statutory ground was not established by clear and convincing evidence. We disagree.

There was no evidence that respondent could care for the child within a reasonable time. Respondent admitted to a history of drug abuse and a failure to maintain sobriety. At the time of the hearing, she was in jail awaiting sentencing on a larceny charge, which she believed could result a sentence of six months in jail. Respondent testified that she was sober for a significant period of time, but had relapsed a few days prior to the child’s birth, which caused her daughter to be born with cocaine, morphine, and marijuana in her system. Respondent admitted that she voluntarily signed away her parental rights to her four previous children because she could not care for them due to her addiction. Furthermore, she told petitioner’s caseworker that she hoped her mother or oldest son would provide care for this child since she, again, could not due to her drug abuse. Finally, respondent provided no care and had no custody over the child, as the child was taken from her while they were still in the hospital. Petitioner’s caseworker also testified that respondent never contacted her to inquire into the child’s well-being. Thus, there was clear and convincing evidence that respondent had not and could not provide proper care and custody of the child within a reasonable time. Accordingly, we are not left with a “definite and firm conviction” that the lower court made a mistake when it terminated respondent’s parental rights under MCL 712A.19b(3)(g). *In re Mason*, 486 Mich 142 at 152. Therefore, respondent has failed to show that the lower court clearly erred in finding that a basis for termination under MCL 712A.19b(3)(g) existed. “Having concluded that at least one ground for termination existed, we need not consider the additional grounds on which the trial court based its decision.” *Id.* at 461.

Respondent also argues that she would have been able to provide proper care and custody if petitioner would have provided proper services to her before termination. However, where, as here, “termination of parental rights is the agency’s goal . . . petitioner . . . is not required to provide reunification services[.]” *In re HRC*, 286 Mich App at 463.

B. BEST INTEREST OF THE CHILD

Respondent next argues that termination was not in the best interest of the child. We disagree.

“In deciding whether termination is in the child’s best interests, the court may consider 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 App 35, 41-42; ___ NW2d ___ (2012). The child here had no bond to respondent, because the child has never been under respondent’s care and custody—petitioner removed the child from respondent at the hospital even before respondent was released. Furthermore, as noted, respondent has a persistent history of illegal drug use, and there is no evidence that she will be able to control her drug abuse in the future. This drug problem, which was serious enough to cause a relapse a few days prior to this child’s birth, would place the child in danger if the child was returned to respondent’s care. Indeed, respondent’s drug abuse and inability to remain sober is strong evidence of her lack of parenting ability, and that that the child’s “need for permanency, stability, and finality” would not be served under respondent’s care. *In Re Olive/Metts*, 297 Mich App at 41-42. Respondent argues that returning the child would keep the family unit intact, and accordingly that returning the child to her would benefit the child’s need for stability. However, there is no family unit: respondent has never cared for the child and never contacted petitioner to inquire about the child’s well-being. Accordingly, the trial court did not clearly err when it determined that termination was in the child’s best interest.

Respondent again argues that she should have received services is also not supported by any facts or law. However, as previously noted, petitioner is not required to give a parent services if the goal is termination. *In re HRC*, 286 Mich App at 463. Moreover, based on the respondent’s repeated unsuccessful attempts at inpatient treatment, there is no evidence that services would have been beneficial to respondent as she once again relapsed prior to the child’s birth.

Affirmed.

/s/ Michael J. Talbot
/s/ Kurtis T. Wilder
/s/ Cynthia Diane Stephens