

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 25, 2013

In the Matter of GIBSON, Minors.

No. 313125
Berrien Circuit Court
Family Division
LC No. 2011-000015-NA

Before: MURPHY, C.J., and SAAD and SERVITTO, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court order terminating his parental rights to his two minor children under MCL 712A.19b(3)(g). We affirm.

If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proven by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011); *In re Moss Minors*, __ Mich App __; __ NW2d __, issued May 9, 2013 (Docket No. 311610), slip op at 3. MCL 712A.19b(3)(g) provides for termination when "[t]he 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." "This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "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 HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

The trial court did not clearly err in finding that MCL 712A.19b(3)(g) was established by clear and convincing evidence. Respondent, who had numerous criminal convictions, never lived with the minor children. When the mother of the children failed to provide proper care or custody, respondent did not step forward to provide the necessary assistance. During the 17 months the case was open, he never secured housing appropriate for the children. Respondent also failed to address his issues with substance abuse and continued to test positive for marijuana. He attended parenting time inconsistently. Respondent participated in some services, but failed to benefit from them. After 17 months, respondent was in essentially the same position as he was at the beginning of the case. He did not have housing appropriate for the

children, he continued to test positive for marijuana, and he did not appear to prioritize doing what was necessary for reunification. There was no indication that he would be able to have the children placed with him within a reasonable time considering the ages of the children. The trial court did not clearly err in finding that respondent failed to provide proper care or custody for the children and that there was no reasonable expectation that he would be able to do so within a reasonable time considering the ages of the children. MCL 712A.19b(3)(g).

In reaching our conclusion, we reject respondent's claim that termination was premature, given that he was entitled to more counseling, which had been benefiting him, but where the service was not provided due to funding cuts. While there was evidence that counseling was interrupted during the course of this lengthy proceeding, it was provided as a service for the majority of the case. Moreover, as noted above, there had effectively been little to no improvement over an extensive period on matters of significance, such as substance abuse and housing. Further, the record does not support respondent's assertion that DHS "felt" that it met its obligations to provide services by reference to services offered in previous cases. Numerous services were offered in this case, but there was little benefit.

The evidence also established that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). A child's need for stability and permanency may be considered in determining best interests. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). When determining best interests, the court can also consider the amount of meaningful contact between the respondent and the children, the bond between the respondent and the children, and the children's progress in the care of their guardians. *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004). In this case, the children never lived with respondent, and there was evidence that there existed only a limited bond between the children and respondent. The children needed stability and permanency, which respondent could not provide. The children were bonded with their foster parents, and the foster parents offered permanency, where they planned to seek adoption of the children. There was testimony that respondent would not be able to overcome the barriers to reunification within the reasonable future, and the children had already spent the majority of their lives in foster care. The finding that termination was in the children's best interests was not clearly erroneous.

Affirmed.

/s/ William B. Murphy
/s/ Henry William Saad
/s/ Deborah A. Servitto