

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of WILLIAMS/ANGLIN, Minors.

UNPUBLISHED
August 13, 2013

No. 314593
St. Clair Circuit Court
Family Division
LC No. 11-000237-NA

Before: BOONSTRA, P.J., and SAWYER and MURRAY, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to her two minor children, RW and CA, pursuant to MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (c)(ii) (other conditions supporting jurisdiction have not been rectified), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if children are returned to parent). We affirm.

I. BASIC FACTS AND PROCEDURE

In June 2011, the court authorized the initial petition in this matter. The petition alleged that respondent's teenage daughters, who are not at issue in this appeal, were violently acting out and that respondent failed to respond appropriately. The petition also alleged physical neglect of RW, issues with income and housing, and an extensive history with Children's Protective Services (CPS). The court took jurisdiction over those children and respondent participated in services. The court also took jurisdiction over CA after his birth in 2012. In December 2012, a termination petition for both RW and CA was authorized. Following a hearing, the court entered an order terminating respondent's parental rights to these two younger children. This appeal followed. We affirm.

II. STATUTORY GROUNDS FOR TERMINATION

We find that the trial court did not clearly err in terminating respondent's parental rights. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). A finding of fact is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

The trial court found the following statutory grounds for termination, pursuant to MCR 712A.19b(3):

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) 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.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Only one statutory ground need be established to support termination of respondent's parental rights. *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009).

Because of respondent's past and current CPS involvement, she had received approximately nine years of services by the time of the termination hearing. Despite involvement in services over a lengthy period of time, respondent still was not an appropriate parent. According to petitioner, although respondent knew what needed to be done to be a proper parent, she refused to implement changes. Respondent informed petitioner that she would not benefit from services or make lasting changes to her parenting style. Respondent failed to follow through with discipline, abdicated her parenting responsibilities to her teenage daughter, and displayed poor judgment by having highly inappropriate conversations with her daughters. She also continued to associate with persons who posed a threat to the children, in direct contravention of a court order, and she failed to maintain appropriate housing or a legal income during most of these proceedings. Although respondent finally completed most of the services in this latest case, she clearly had not benefited from them. See *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012); *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005).

Given all of these circumstances, the trial court did not err in determining that grounds for termination existed under MCL 712A.19b(3)(g) and (j) for both children, and additionally under MCL 712A.19b(3)(c)(i) and (c)(ii) for RW.¹

III. BEST INTERESTS DETERMINATION

Further, the trial court did not clearly err in finding that termination was in the children's best interests. In deciding a child's best interests, a court may consider the child's bond to his parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the suitability of alternative homes. *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights if the court also finds that termination of parental rights is in the best interests of the child. MCL 712A.19b(5). Whether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence. *In re Moss Minors*, ___ Mich App ___; ___ NW2d ___, issued May 9, 2013 (Docket No. 311610). A preponderance of the evidence means evidence of a proposition that when weighed against the evidence opposed to the proposition "has more convincing force and the greater probability of truth." *People v Cross*, 281 Mich App 737, 740; 760 NW2d 314 (2008). We review the trial court's decision for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Here, the court cited respondent's continued issues despite involvement with services over a lengthy period. The court noted the children's ages and their need for permanence, stability, and finality, respondent's lack of a bond with CA due to his placement at birth, and the older child's improvement in foster care. The trial court additionally noted respondent's long history of involvement with services, her continued issues, and her poor decisions, including association with drug users. The court also noted that respondent had just recently obtained a job and failed to establish a home after many months.

The trial court's decision was fully supported by the evidence and was not clearly erroneous. As noted, the evidence established that respondent had received services for a number of years, yet failed to benefit from them. She continued to display problematic parenting skills, which she was either unwilling or unable to address. Respondent had instability in housing and employment for the bulk of these proceedings and also continued to associate with persons who could present a danger to her children. The trial court heard testimony from the children's case worker, who testified that RW's speech delays had improved dramatically from being removed from his chaotic home environment, and that CA was very bonded with his brother and his foster parents.

¹ Although the court clearly erred to the extent it found that MCL 712A.19b(3)(c)(i) and (c)(ii) were established with regard to CA because 182 days had not passed since he was removed from respondent's custody at birth, the error was harmless because MCL 712A.19b(3)(g) and (j) were established for both children.

The trial court's best-interest determination, as well as the court's decision to terminate respondent's parental rights to these children, were fully supported by all the record evidence and were not clearly erroneous.

Affirmed.

/s/ Mark T. Boonstra

/s/ David H. Sawyer

/s/ Christopher M. Murray