

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of D. D. DORRIS, Minor.

UNPUBLISHED
January 30, 2014

No. 317599
Wayne Circuit Court
Family Division
LC No. 12-510633-NA

Before: METER, P.J., and JANSEN and WILDER, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to her child under MCL 712A.19b(3)(a)(ii) (parent has deserted child for 91 or more days), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm). We affirm.

Respondent does not challenge the trial court's finding that there was clear and convincing evidence to terminate parental rights under the three statutory grounds listed above. Respondent only argues that the trial court erred in finding that it was in the child's best interests to terminate her parental rights. We disagree.

This Court reviews for clear error the trial court's decision that termination of parental rights was in the child's best interests. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). "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 Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011).

Respondent first contends, without citation to authority, that the trial court erred in failing to provide her with a treatment plan before terminating her parental rights. However, MCL 712A.19b(4) states that a court may enter an order terminating parental rights at the initial dispositional hearing. Further, MCL 712A.19b(5) states:

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.* [Emphasis added.]

In the amended original petition, the Department of Human Services (DHS) requested that respondent's parental rights be terminated and that the child be made a permanent court ward. Despite DHS's goal of terminating respondent's parental rights from the outset, a

“Children’s Foster Care Initial Service Plan” was created in the event that respondent’s parental rights were not terminated. This proposed treatment plan included goals to improve respondent’s emotional stability, parenting skills, substance-abuse problems, domestic-violence problems, housing, and more. However, respondent did not complete one of her in-patient treatments for substance abuse, had not attended a single visitation with the child, and explicitly stated that she could not complete a parenting skills class, despite it being provided to her free of charge.

Respondent’s failure to abide by this treatment plan and her failure to maintain contact with DHS throughout the proceedings were but two of the numerous reasons for terminating her parental rights. Once the trial court found that a statutory ground for termination had been proven by clear and convincing evidence and that termination of parental rights was in the child’s best interests, the court was required to order that additional efforts for reunification of the parent and child not be made. See MCL 712A.19b(5). The trial court did not err by refusing to give respondent additional attempts to complete a treatment plan.

Respondent next contends that the trial court committed clear error in finding that the child’s removal was in his best interests, when respondent’s mother offered to take placement of the child and was willing to help respondent raise the child.

If a statutory ground for termination of parental rights is proven by clear and convincing evidence, the court must still determine if termination is in the child’s best interests. *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012). To justify termination, the petitioner must prove by a preponderance of the evidence that termination is in the child’s best interests. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). In finding that termination was in the child’s best interests, the trial court stated that there was no bond between respondent and the child and that respondent had in fact abandoned the child. Further, the court found that respondent’s behavior presented a danger to the child’s well-being and that continuing a relationship between respondent and the child would be detrimental to the child.

Respondent had not attempted to visit the child even once after he was taken into foster care, despite being offered a total of 30 supervised visits. Additionally, respondent failed to appear for any of the court proceedings after the preliminary hearing and refused to undergo a parenting skills class, even though one was offered to her free of charge. Respondent’s older son was currently under a guardianship with respondent’s brother, but respondent’s brother stated that he could not care for this child as well. Additionally, though respondent’s mother stated at trial that she wished to accept a placement or guardianship over the child, respondent’s mother had previously told an employee of child protective services that she could not accept placement of the child.

Respondent argues that terminating her parental rights was clearly erroneous because respondent’s mother stated that she would like to be the child’s guardian. However, the court was not required to consider respondent’s mother as a possible placement when evaluating whether termination would be in the child’s best interests. “[A] child’s placement with relatives weighs against termination under MCL 712A.19a(6)(a)” *In re Olive/Metts*, 297 Mich App at 43, quoting *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). If a child is residing with a relative, the trial court should consider that as an “explicit factor” in determining if

termination is in the child's best interests. *Id.* However, the child was not residing with respondent's mother when the termination hearing occurred; rather, he was in foster care.

The child had not lived with respondent since the first few weeks of his life and had not visited with respondent since he had been placed in foster care. Respondent had a history of mental illness and substance abuse, had not adequately treated those issues, and had been hospitalized multiple times for mental illness. Further, respondent's mother testified that respondent was living "[i]n the streets, anywhere," and the child had previously been recovered from an "unsuitable" house in which respondent was residing and where she was engaged in a relationship involving domestic violence. It was not error for the court to find that it was in the child's best interests to terminate respondent's parental rights in light of this testimony. See *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012) (finding that a trial court did not clearly err in holding that it was in a child's best interests to terminate a mother and father's parental rights because neither could provide a permanent, safe, and stable home in the near future).

Affirmed.

/s/ Patrick M. Meter

/s/ Kathleen Jansen

/s/ Kurtis T. Wilder