

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
February 11, 2014

In the Matter of J. HARDENBURG, Minor.

No. 316158
Bay Circuit Court
Family Division
LC No. 11-010843-NA

Before: BOONSTRA, P.J., and CAVANAGH and FITZGERALD, JJ.

PER CURIAM.

Respondent mother appeals as of right the order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). Respondent challenges the trial court's decision that termination of her parental rights was in the child's best interests. We affirm.

We review for clear error the trial court's factual findings in an order to terminate parental rights. See MCR 3.977(K); *In re Rood*, 483 Mich 73, 90; 763 NW2d 587 (2009). "[T]he preponderance of the evidence standard applies to the best-interest determination." *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013).

"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." MCL 712A.19b(5).

Respondent was diagnosed with a debilitating illness known as Huntington's disease. This disease, which has no cure, causes a loss of physical and mental capacity. In addition, respondent had mental health issues and used alcohol during the pendency of the case. The evidence showed that the minor child was frequently unsupervised, not properly dressed, and essentially cared for herself at times. Respondent was involved in multiple motor vehicle accidents in the year prior to removal of the child from her home and had two citations for driving under the influence. The initial hope was that a relative guardianship could be arranged so that respondent could continue to be involved in her child's life as long as her health allowed. Numerous relatives were considered for guardianship or adoption, but for various reasons none of these placements succeeded. From the age of three years to five years, the minor child lived in four different placements and she began to exhibit symptoms of stress and attachment disorder. The relationship between respondent and the minor child deteriorated to the point where it was detrimental to the child's mental health. Occasionally respondent suffered emotional breakdowns during visitation that frightened the child. At other times respondent

would fail to engage with the child, choosing instead to be on her phone or leave the room for extended periods during visitation.

Respondent's sole argument on appeal is that the trial court erred in finding that termination was in the child's best interests. Specifically, respondent argues that the trial court incorrectly dismissed the idea of a juvenile guardianship with a non-relative. Respondent contends that despite her illness, parenting time was still important and that a juvenile guardianship, even with a non-relative, would have afforded her that opportunity.

A trial court may consider the minor child's advantages in foster care when determining the child's best interests. *In re Foster*, 285 Mich App 630, 635; 775 NW2d 415 (2009); *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004). The trial court may also consider the child's need for stability and permanency. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011).

The trial court found that the respondent did not benefit from services offered, continued to use alcohol, and refused to take medications to slow the progress of her disease. Moreover, the trial court found that during face-to-face visits respondent was unable to keep her attention on her child, electing rather to use her cell phone or walk away with no regard for how this behavior might be affecting the child. The trial court also found that the child was doing well in her foster home and was improving at school. The trial court emphasized the importance of stability and permanence for the child, especially in light of the child's possible attachment disorder.

The record clearly shows a very unfortunate situation in that respondent will never recover from her illness and she would like to retain her rights as a parent. However, this does not negate the trial court's finding that the minor child was better off in the care of the foster mother, who was providing permanency and stability. Accordingly, a preponderance of the evidence supports the trial court's finding that termination was in the minor child's best interests. MCL 712A.19b(5).

Affirmed.

/s/ Mark T. Boonstra
/s/ Mark J. Cavanagh
/s/ E. Thomas Fitzgerald