

STATE OF MICHIGAN
COURT OF APPEALS

In re COBERN, Minors.

UNPUBLISHED
March 24, 2015

No. 322782
Jackson Circuit Court
Family Division
LC No. 12-001012-NA

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

PER CURIAM.

Respondent-mother appeals as of right the June 17, 2014 order terminating her parental rights to the minor children HC, JC1, AC, JC2, and BC under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if children are returned to parent). We affirm.

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). “We review the trial court’s determination for clear error.” *Id.* Here, the trial court properly held that termination was proper under MCL 712A.19b(3)(j), which provides that termination is proper where “[t]here is a reasonable likelihood, based on the conduct or capacity of the child[ren]’s parent, that the child[ren] will be harmed if [they are] returned to the home of the parent.” The harm to the children contemplated under MCL 712A.19b(3)(j) includes emotional harm as well as physical harm. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011).

Respondent admitted to the allegations in the petition which included the children living in unsanitary conditions which resulted in the children requiring medical attention. Additionally, respondent admitted that she resided with a registered sex-offender. The court did not err in finding that those conditions were largely unassuaged.

It was determined at the beginning of the proceeding that respondent required intensive therapy in order to be able to safely parent the children. One of the goals of therapy was to assist respondent in making a realistic assessment of the conditions in which the children lived prior to their removal so that she could appropriately structure her life to avoid those problems in the future. During the 22-month proceeding respondent completed 15 counseling sessions with three different therapists and showed little benefit. She failed to take responsibility for the children entering care and denied that the children sustained rashes and bite marks after attending visitation in her home. Respondent maintained a relationship with a registered sex offender

during the proceeding, later married him, and did not believe that he was at fault for his conviction or that the children would be in danger in his presence.

It was, also not error for the court to find that respondent did not either provide proper care and custody for the children and was unlikely to do so within a reasonable time. Her attendance at parenting times was inconsistent despite the impact on the children which was made known to her. Respondent's parenting time with AC was suspended during the proceeding because of her poor reactions after visits with respondent. Although respondent argues that she made great strides in improving her parenting skills during the proceeding, the record supports that most of her progress occurred after the January 31, 2014 termination hearing. Additionally, it was unknown whether she could handle all of the children simultaneously for longer than one hour. Further, HC reported being abused while in respondent's care, did not believe respondent would be able to care for her and the other children, and reported concern that respondent was mean to her and the other children. Importantly, at the time of termination, respondent lacked employment and housing.

Although respondent argues on appeal that the trial court should not have relied on the caseworker's opinion that the children should not be returned to respondent's care, this Court gives "deference to the trial court's special opportunity to judge the credibility of the witnesses," *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009), and will not disturb its credibility determinations on appeal, *Mogle v Scriver*, 241 Mich App 192, 201; 614 NW2d 696 (2000). Respondent's argument that only the caseworker believed that the children would be harmed if returned to her care is unsupported by the record given that Dr. Randall Haugen also testified that respondent would not be able to provide a safe and stable environment if she failed to make sufficient progress in therapy, which the record supports she failed to do. The trial court's finding pursuant to MCL 712A.19b(3)(j) does not leave us with "a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App at 459. Because we have concluded that at least one ground for termination existed, we need not consider the additional grounds upon which the trial court based its decision to terminate respondent's parental rights. *Id.* at 461.

Respondent next argues on appeal that, because the record did not support that a statutory ground for termination had been met, it was unnecessary for the trial court to consider best interests. In order to terminate parental rights, a trial court must determine that a statutory ground for termination has been met *and* that termination is in the children's best interests. *In re VanDalen*, 293 Mich App at 139. However, because termination was proper under MCL 712A.19b(3)(j), this argument is unsupported.

Respondent also challenges the trial court's best-interests findings. We review a trial court's finding that termination is in the minor children's best interests for clear error. *In re HRC*, 286 Mich App at 459. "In deciding whether termination is in [the] child[ren]'s best interests, the court may consider the child[ren]'s bond to the parent, the parent's parenting ability, the child[ren]'s need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (internal citations omitted).

The children were not bonded to respondent at the beginning of the proceeding. At the time of the termination hearing the three oldest children were in counseling, demonstrated

symptoms of Post Traumatic Stress Disorder, and were diagnosed with neglect of child. At the time of termination, both JC1 and AC needed psychotropic medication to control their behaviors. HC reported being abused while in respondent's care, stated that she did not want to return to respondent's care, and noted that respondent was mean. BC qualified for special education services because of her delays. Respondent consistently missed "some" parenting times each month between August 2012 and January 31, 2014 even though it upset the children. During the proceeding, respondent lied about her relationship with her then boyfriend and later married him during the proceeding despite his sex-offender status. Respondent's parenting times with AC were suspended six months before termination because of AC's level of aggression after the visits and her "conflicted" bond with respondent.

By the time of termination, the children had been in foster care for 22 months. They were thriving and making progress in foster care and required permanency and stability in order to reach their full potential. Respondent was not improving to the point that she would be able to regain custody within a reasonable time. See *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012). Although respondent argues on appeal that she was "undermined" during the proceeding by the agency, she does not explain or rationalize this argument. Moreover, given the amount of services that she was offered throughout the proceeding, we cannot discern how she was "undermined" at any point in time. The trial court's finding that termination of respondent's parental rights was in the best interests of the children was not clearly erroneous. See *In re HRC*, 286 Mich App at 459.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Deborah A. Servitto
/s/ Cynthia Diane Stephens