

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
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In re B. R. STORY, Minor.

No. 380147
Kalamazoo Circuit Court
Family Division
LC No. 2024-000231-NA

Before: SWARTZLE, P.J., and ACKERMAN and TREBILCOCK, JJ.

PER CURIAM.

Respondent-mother appeals the trial court’s order terminating her parental rights to her son, BRS. Respondent-mother does not challenge the reasonable efforts made by petitioner to reunite her with BRS, nor does she challenge the statutory grounds for termination. Instead, respondent-mother argues that the trial court should have ordered a guardianship in lieu of termination. As explained, the argument is without merit.

I. BACKGROUND

BRS was born in December 2023. This child-protective proceeding began when petitioner, the Department of Health and Human Services, learned that respondent-mother left BRS with a cousin without arrangements for his care in June 2024; as a result, respondent-mother was charged with (and later convicted of) fourth-degree child abuse.

Petitioner filed the initial petition seeking removal of BRS from respondent-mother’s care and termination of her parental rights. Petitioner alleged that respondent-mother could not provide for BRS’s needs because she was homeless, unemployed, and then-incarcerated. Petitioner further alleged that respondent-mother tested positive for amphetamine and methamphetamine in April 2024 and that she had her parental rights to her daughter, RS, terminated because of substance abuse, physical neglect, and failure to engage with services. Lastly, petitioner alleged that there had been three incidents of domestic abuse between respondent-mother and BRS’s father, one of which resulted in criminal charges against respondent-mother.

The case progressed, and the trial court removed the termination request and ordered respondent-mother to begin services. Respondent-mother's progress with services was mixed, at best. Although she had parenting-time visits with BRS and completed some drug screenings, respondent-mother also tested positive for amphetamine in February 2025 and refused a drug screen in March 2025. Respondent-mother made no progress obtaining adequate housing or employment, and she continued in her relationship with BRS's father.

In May 2025, respondent-mother was arrested for failing to appear in treatment court; that court found her guilty of contempt and discharged her from the program. Beginning in June 2025, respondent-mother failed to appear in the instant case, and the trial court ordered petitioner to initiate termination proceedings, which petitioner did by supplemental petition in December 2025.

Respondent-mother reappeared at the beginning of termination proceedings in February 2026. Respondent-mother had earlier been in jail for failing to appear at her sentencing in the child-abuse criminal matter; when not in jail, respondent-mother had apparently been living in a tent in the woods behind BRS's daycare.

Termination proceedings concluded in March 2026. Respondent asked the trial court to adjourn her termination proceedings because she had since been released from jail; she was living at "KPEP" (a residential alternative to incarceration for adult offenders) and engaging with drug treatment court as conditions of her probation. Although the trial court noted respondent-mother's apparent genuine desire to address her substance abuse and other issues, the trial court declined to adjourn the hearing.

With respect to the best interests of BRS, the trial court provided a thorough analysis. The trial court observed that, throughout the proceedings, respondent-mother failed to make sufficient progress toward reunifying with BRS. She was arrested and incarcerated multiple times; she never acquired stable employment or adequate housing; she continued to test positive for amphetamine and methamphetamine; and she continued her relationship with BRS's father, where each adult abused the other. Some of these same issues had led to the earlier termination of respondent-mother's parental rights to RS. Although respondent-mother had taken a "recent positive step" with her drug court enrollment, the trial court concluded that this did not tip the balance in her favor.

The trial court noted that respondent-mother repeatedly attempted to have contact with BRS outside of the daycare, and this was "not evidence of a healthy, secure parent-child bond," but rather "evidence of harm" to the child. The absence of a strong parent-child bond between respondent-mother and BRS negatively effected the child; in contrast, BRS had a strong, positive bond with his foster parents, whom he called "mom" and "dad."

The trial court recognized that, because of the foster parents' adoption of RS, BRS's placement in the foster home had to be considered a "relative" placement. BRS was happy and healthy, and he enjoyed a good sibling relationship with RS. With that said, the trial court expressly considered this relative placement as weighing against termination, explaining:

The Court has also considered guardianship with the current relative placement as an alternative to termination, and explicitly rejects it as insufficient to serve his best

interests. The Court addresses this alternative on the record because it recognizes that [BRS]’s placement with a loving, committed relative caregiver as a factor standing alone might counsel in favor of a less permanent arrangement.

The trial court determined that termination and adoption, rather than guardianship, was the better option for several reasons:

First, guardianship does not extinguish parental rights. It would preserve the legal relationship between [BRS] and parents, whose continued involvement poses documented safety risks. Second, guardianship is inherently less reliable, less stable legal arrangement than adoption. It can be modified or disrupted. Adoption is permanent and irrevocable. And [BRS] is two years old and needs that certainty of adoption, not a conditional guardianship. Third, [BRS]’s half-sister was adopted and placed – not placed under a guardianship by these same caregivers. Placing [BRS] under guardianship while his sister enjoys full legal status would create an inequality between the two children. The Court finds that guardianship is not in the child’s best interest and that adoption through termination is the appropriate and necessary plan.

As the trial court noted, BRS’s “need for permanency is acute and immediate.”

Thus, after taking judicial notice of respondent-mother’s prior termination case and her criminal case, and after considering the exhibits in the file and testimonies of respondent-mother, the caseworker, and BRS’s daycare provider, the trial court terminated respondent-mother’s parental rights.

Respondent-mother now appeals.

II. ANALYSIS

Respondent-mother’s only argument on appeal is that the trial court erred by finding that termination of respondent-mother’s parental rights, rather than the establishment of a guardianship, was in BRS’s best interests. “This Court reviews for clear error a trial court’s determination that petitioner has proved by a preponderance of the evidence that termination of parental rights was in the child’s best interests.” *In re MJC*, 349 Mich App 42, 61; 27 NW3d 122 (2023). A finding is clearly erroneous when we are “definitely and firmly convinced” that the trial court made a mistake, even if some evidence supports the finding. *In re White*, 303 Mich App 701, 709-710; 846 NW2d 61 (2014).

If the trial court finds that petitioner established one or more statutory grounds for termination by clear and convincing evidence at the termination hearing, then the court must order termination of the parent’s parental rights if it also finds that termination is in the child’s best interests. MCL 712A.19b(5); *In re Beck*, 488 Mich 6, 11; 793 NW2d 562 (2010). In making a best-interest determination, the focus is on the child, not the parent. *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013).

“The trial court should weigh all the evidence available to determine the children’s best interests,” and it should consider a variety of factors, including “the child’s bond to the parent[.]”

the parent’s parenting ability[;] the child’s need for permanency, stability, and finality[;] and the advantages of a foster home over the parent’s home.” *In re White*, 303 Mich App at 713 (quotation marks and citation omitted). “The trial court may also consider a parent’s history of domestic violence, the parent’s compliance with his or her case service plan, the parent’s visitation history with the child, the children’s well-being while in care, and the possibility of adoption.” *Id.* at 714. “A parent’s substance-abuse history is also relevant to whether termination is in the child’s best interests.” *In re Rippy*, 330 Mich App 350, 361; 948 NW2d 131 (2019). The trial court can consider how long a child has been in foster care when evaluating a child’s best interests. *In re Mota*, 334 Mich App 300, 321; 964 NW2d 881 (2020), as well as the child’s placement in a relative’s care at the time of the termination hearing. *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012).

Short of terminating parental rights, appointing a guardian serves as an alternative. *In re Burns*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 373903); slip op at 4. “A trial court is not required to establish a guardianship in lieu of termination if it is not in the child’s best interests to do so.” *In re Lombard*, 351 Mich App 523, 534-535; 35 NW3d 751 (2024). Courts may not, however, apply a blanket policy disfavoring guardianships. *Id.* at 535.

On review of the record, we conclude that a preponderance of the evidence supported the trial court’s finding that termination of respondent-mother’s parental rights and subsequent adoption, not a guardianship, was in BRS’s best interests. As explained by the trial court, respondent-mother made little-to-no progress toward reunifying with BRS. Although respondent-mother was enrolled in KPEP and drug treatment court at the time of termination—so she was presumably not abusing illegal drugs at the time—this was a recent development and an aspect of her probation from her criminal case. Not only was respondent-mother’s enrollment in the programs involuntary, but she had not been enrolled long enough to show benefit. Moreover, respondent-mother was absent from the case for several months. Respondent-mother’s unwillingness to rectify the barriers to reunification in this case is clear.

As for BRS, there was no real bond between him and respondent-mother, which was in contrast with the strong parent-child bond that he had with his foster parents. The trial court did consider whether a guardianship would be more appropriate, but it rejected that option for several reasons, most notably the child’s need for safety, permanence, and stability. Furthermore, the trial court was concerned about the psychological effect on BRS if he grew up in a household with a sibling with whom he did not have equal legal status. The trial court felt that the value of an equal sibling relationship between RS and BRS strongly favored termination.

A guardianship is not necessarily permanent and may not adequately meet a child’s needs for safety, permanence, and stability, when, as in this case, a parent has proven unable to provide a safe and appropriate home. See *In re Simpson*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 368248); slip op at 6-7. Furthermore, the record does not show that BRS’s foster parents would have agreed to serve as BRS’s guardians; however, they were willing to adopt him. See *id.*

On this record, we are not convinced that the trial court made a reversible error when

determining BRS's best interests. See *In re MJC*, 349 Mich App at 61.

Affirmed.

/s/ Brock A. Swartzle
/s/ Matthew S. Ackerman
/s/ Christopher M. Trebilcock