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STATE OF MICHIGAN

COURT OF APPEALS

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In re WILLIAMS/MILLER, Minors.

No. 379084
Genesee Circuit Court
Family Division
LC No. 24-139715-NA

Before: M. J. KELLY, P.J., and RIORDAN and RICK, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to her minor children, CM, CW, and RW, under MCL 712A.19b(3)(c)(*i*), (g), and (j).[1] For the reasons stated in this opinion, we affirm.

I. BASIC FACTS

This case arises after CM ingested cocaine and was hospitalized. At the time, CM was a 12-week-old infant. Respondent had placed him in the care of her brother even though there were substance-abuse issues (including "drug dealing") in his house. CM suffered permanent and severe injuries as a result of his exposure to cocaine. Respondent made no effort to visit him while he was hospitalized, and caseworkers experienced extreme difficulty in contacting her to discuss the case. An investigation revealed that respondent was abusing cocaine and that she had an extensive history of substance abuse. Her oldest child had tested positive for tetrahydrocannabinol (THC) at birth, and CW, RW, and CM each tested positive for cocaine at birth. Further, CW and RW, who were in her care, were being physically neglected. Caseworkers observed that CW, who was four years old, and RW, who was three years old, were both unkept, had a strong odor, and were nonverbal. They had not been seen regularly by a primary care physician, and caseworkers suspected that they were possibly autistic.

[1] Respondent's parental rights to two additional children are not at issue in this appeal.

The initial permanency goal was reunification. In furtherance of that goal, respondent had supervised parenting time and was ordered to complete a substance abuse evaluation, outpatient substance abuse treatment, anger management, parenting classes, a psychological evaluation, and obtain a referral for a neurological exam. She was also required to attend all the children's medical appointments and seek legal income and housing. Throughout the case, respondent made minimal progress and demonstrated minimal benefit from the services she completed. For instance, although she completed parenting classes and an anger management course and was provided with parenting resources, parenting time remained a repeated source of conflict. It was revoked, reinstated, or altered multiple times throughout the case as a result of respondent's obstreperous behavior and abusive attitude toward caseworkers. Respondent was also frequently disruptive and argumentative with petitioner and the court during various court hearings.

The goal was eventually changed from reunification to adoption and a termination hearing was held. Following the termination hearing, the court found by clear and convincing evidence that there were grounds to terminate respondent's parental rights under MCL 712A.19b(3)(c)(*i*), (g), and (j). It also found by a preponderance of the evidence that termination of respondent's parental rights was in the best interests of each child. This appeal follows.

II. STATUTORY GROUNDS

A. STANDARD OF REVIEW

Respondent argues that the trial court erred by finding statutory grounds to terminate her parental rights. We review a trial court's findings of statutory grounds for clear error. *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). "The trial court's factual findings are clearly erroneous if the evidence supports them, but we are definitely and firmly convinced that it made a mistake." *Id*. at 709-710.

B. ANALYSIS

Termination is warranted under Subdivision (j) if "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if the child is returned to the home of the parent." MCL 712A.19b(3)(j). Termination is proper under this subdivision when there is demonstrated potential for physical or emotional harm to the child. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011). "[A] parent's failure to comply with the terms and conditions of his or her service plan is evidence that the child will be harmed if returned to the parent's home." *White*, 303 Mich App at 711.

Here, the children have already experienced physical and emotional harm. All three were born positive for cocaine, and respondent had another child during the case also born positive for cocaine. CM ingested cocaine, suffering extreme and permanent disabilities as a result. CW and RW entered care with medical and educational delays and signs of physical neglect. CW, who was nonverbal and diagnosed with autism during the case, "self-soothed" by eating. Throughout the case there were serious concerns about respondent's substance abuse, and the court repeatedly addressed the fact that respondent's failure to maintain sobriety put the children at risk of harm.

Respondent demonstrated an inability to take her substance abuse seriously and failed to comply with her service plan. While she attended various inpatient and outpatient treatments, she

did not successfully complete or benefit from them and continued to test positive for cocaine. Indeed, she was required to undergo random drug screens and given numerous referrals for substance abuse treatment and parenting classes. She was offered 185 drug screens throughout the case, she took 11, and six of those were positive for cocaine. She also attempted inpatient counseling for drug use but left early and was removed from other treatment programs "[d]ue to multiple behavioral violations that compromised the safety and integrity of the treatment environment." Similarly, she completed anger management, but did not demonstrate any improvement, as she continued to disrupt court proceedings and behaved combatively at parenting-time visits.

Respondent also failed to meaningfully participate in other aspects of the service plan, becoming inconsistent with parenting time and failing to attend her children's medical appointments. CM required numerous surgeries and ultimately required a feeding tube, but respondent was difficult to reach and consistently caused delays in his care. She also delayed getting CW evaluated for autism despite repeatedly being offered assistance by caseworkers. Because of the children's medical fragility, respondent was ordered to attend their medical appointments so that she could learn to properly care for them. Ultimately, she attended only two of the children's 49 appointments.

Respondent argues that she would not cause harm if the children were returned to her care, but when CW and RW were temporarily returned, they did experience harm. Respondent neglected their physical hygiene and then abandoned them with their former foster parents. That experience demonstrated that respondent was unable to safely care for them. Additionally, respondent did not learn how to care for CM's medical needs, such as how to use his feeding tube, and would be unable to provide him with the specialized care he requires to meet even his basic needs if he were returned to her.

Given respondent's failure to benefit from her service plan and the likelihood that her children would be at risk of harm if returned, the trial court did not clearly err when it found that the evidence supported terminating her parental rights under MCL 712A.19b(3)(j).

Respondent-mother's overarching argument that the conditions that led to termination of her parental rights could "be rectified with time" ignores that, even given more than twice the statutory time frame, she did not show demonstrable improvement, and there was no reason to support that additional time would lead to a different result.[2]

III. BEST INTERESTS

A. STANDARD OF REVIEW

Respondent-mother argues that the trial court erred when it concluded it was in the best interest of the children to terminate her parental rights and that the court did not consider the

[2] Because only one ground for termination needs to be proven, we do not address the other grounds for termination. See *In re Sanborn*, 337 Mich App 252, 273; 976 NW2d 44 (2021).

children individually. We review the court's best-interests findings for clear error. *In re White*, 303 Mich App at 713.

B. ANALYSIS

In making its best-interests determination, the trial court "should weigh all the evidence available to it," and may consider

> 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. Other considerations include the length of time the child was in care, the likelihood that the child could be returned to her parents' home within the foreseeable future, if at all, and compliance with the case service plan. [*In re Atchley*, 341 Mich App 332, 346-347; 990 NW2d 685 (2022) (quotation marks and citation omitted).]

"The focus at the best-interest stage has always been on the child, not the parent." *Id*. at 346 (quotation marks and citation omitted).

As an initial matter, the trial court considered the best interests of each child separately. The trial court first found that it was in CM's best interest for respondent's parental rights to be terminated. That finding was not clearly erroneous. CM was placed into care when he was 12 weeks of age. At the time of the termination hearing, he had just turned two years old. He was in a stable placement with caregivers who were ensuring that he attended necessary physical therapy, speech therapy, occupational therapy, and other medical appointments. His needs were being met by his caregivers, who were interested in adopting him. CM had bonded with his caregivers and the other children in their home.

In contrast, respondent had not made any efforts to strengthen her bond with CM and barely attended parenting time with him. CM has significant medical conditions that will remain in the future, but respondent repeatedly demonstrated that she could not, or would not, reliably attend to those long-term medical needs. Additionally, respondent had failed to rectify her substance-abuse issues despite being provided services to do so. She continued to test positive for cocaine, to miss drug screens, and did not complete substance-abuse treatment. She also continued to demonstrate anger-management problems and lacked housing and legal income.

In light of the foregoing, the trial court did not clearly err by finding that termination of respondent's parental rights was in CM's best interest.

The court also found that termination of respondent's parental rights to CW and RW was in their best interest. In doing so, the court recognized that there was a bond between respondent, but found that the strength of the bond was questionable. The court noted that CW was not evaluated for autism until he was placed in care. He was considered to be "pretty high on the spectrum" and needed additional support, which had not been provided while he was in respondent's care. With his foster family, CW had been referred to applied behavior analysis services and received additional services at school. He appeared to have a good bond with his foster parent. Likewise, while there was initially a bond between respondent and RW, it had diminished over time. RW stopped asking for her mother and indicated that she did not want to go

to parenting time. In contrast, she had formed a bond with her foster parent and appeared to be thriving in care.

Although respondent participated more consistently in her parenting visits with CW and RW than with CM, she still failed to meaningfully participate in the other aspects of the service plan, such as medical evaluations and substance abuse treatment. CW and RW were placed together, remained strongly attached to each other, and were also forming bonds with the adopted children in their foster home. Their caregivers indicated that they would continue to keep both children long term in order to provide a permanent, stable, and final environment for the children to thrive. CM's caregivers and CW and RW's caregivers indicated that they would ensure the children saw each other and could maintain a sibling relationship.

Based upon the foregoing, the trial court did not clearly err by finding that termination of respondent's parental rights was in the best interests of CW and RW. They had a need for permanence, stability, and finality that their caregivers were providing but that respondent could not provide.

Affirmed.

/s/ Michael J. Kelly
/s/ Michael J. Riordan
/s/ Michelle M. Rick