

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of HEAVENLY BRANCH, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RAQUEL SCOTT,

Respondent-Appellant.

UNPUBLISHED

January 8, 2009

No. 286145

Genesee Circuit Court

Family Division

LC No. 98-109858-NA

Before: Zahra, P.J., and O'Connell and Fort Hood, JJ.

PER CURIAM.

Respondent Raquel Scott appeals as of right from the trial court's order terminating her parental rights to her daughter pursuant to MCL 712A.19b(3)(g), (i), (j), and (l). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one statutory ground for termination set forth in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). We review the trial court's decision terminating parental rights for clear error. MCR 3.977(J); *Trejo, supra* at 356-357. A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). "[R]egard shall be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." MCR 2.613(C).

There was clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(g) because respondent has been unable to raise and care for her children since 1995, when she voluntarily released her parental rights to another daughter. Her parental rights were subsequently terminated to four other children, one of whom tested positive for cocaine at birth in 2004. Respondent has been abusing crack cocaine for years and has a serious, untreated addiction to drugs. Respondent admitted that she began prostituting herself to support her drug habit ten years ago when she was 19 years old. She also admitted that her drug use affected her parenting skills. For example, in June 2006, when her daughter was only four

weeks old, respondent left her with her mother, who also had a history with Child Protective Services (“CPS”), so she could go shopping with a friend, but respondent ended up using drugs instead.

Although respondent claimed that she has stopped using drugs, her claim is not persuasive because she has not demonstrated that she can maintain a drug-free lifestyle outside prison for an extended period of time. Respondent admitted that she would never be free from substance abuse and that there was no guarantee that she could maintain a drug-free lifestyle. Moreover, respondent has been homeless and unemployed since her daughter’s birth. She also has a criminal record consisting of drug-related offenses and probation violations. Her current incarceration makes her unavailable to parent her daughter. This evidence establishes that termination is appropriate under MCL 712A.19b(3)(g) because respondent cannot provide proper care and custody for the child.

Termination of respondent’s parental rights was also proper under MCL 712A.19b(3)(i) and (l) because her parental rights were previously terminated to four other children. Respondent released her parental rights to her eldest daughter on January 11, 1995. Her parental rights to another child were involuntarily terminated on August 16, 2001, for failure to comply with her treatment plan, and her parental rights to a third child were terminated on February 2, 2002. On November 13, 2004, respondent gave birth to a baby who tested positive for cocaine. The court terminated her parental rights to this child on January 25, 2005.

Although respondent argues that the trial court failed to make specific factual findings regarding these prior terminations, the court noted that her rights were terminated because she had failed to comply with her treatment plans, and that one of her other children tested positive for cocaine at birth. Although the court did not make exhaustive findings, its recognition of prior court orders and testimony regarding the termination of respondent’s parental rights to her other children showed that it was aware of the issues in the case and decided them in accordance with applicable law. The court’s failure to parrot the statutory language was, therefore, harmless. MCR 2.513(A). The court need not utter any “magic words” on the record before it can order protective measures as long as the record reveals that it was aware of the issue to be determined and resolved it. *In re Hensley*, 220 Mich App 331, 334; 560 NW2d 642 (1996).

In addition, the court did not err when it determined that termination was appropriate under MCL 712A.19b(3)(j). Respondent’s serious, longstanding drug addiction would put her daughter at risk of harm in her care. Respondent demonstrated impaired judgment by leaving the infant child in the care of her mother, who had a CPS history, in order to use drugs. This behavior was dangerous and reckless. Further, by refusing to follow the court’s orders in her criminal cases, failing to complete drug treatment or report to her probation officer, maintaining a criminal lifestyle, and visiting the child despite court orders prohibiting her from having contact with the child, respondent further demonstrated poor judgment that would put the child at risk of harm.

Finally, the trial court did not clearly err when it determined that termination of respondent’s parental rights was in the child’s best interests. Respondent’s daughter needs to move forward with her life and there is no guarantee that respondent would be released from prison in November 2008. Also, respondent has not shown that she can maintain a drug-free, stable lifestyle or that she can provide housing and financial support for herself or her daughter.

Respondent argues that termination was not in her daughter's best interest because of the bond between them, but there is no evidence detailing the quality or nature of their relationship. The child had been in respondent's care for only four weeks and, thus, any extensive bond between her and respondent is questionable. Further, the child is bonded with her caregiver. Termination of respondent's parental rights is not contrary to her daughter's best interests because she is a young child in need of a stable lifestyle, and there is no evidence that respondent can provide her with this stability. Ultimately, respondent cannot meet her daughter's needs. "If a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent." *In re Terry*, 240 Mich App 14, 28; 610 NW2d 563 (2000), quoting *In re AP*, 1999 Pa Super 78; 728 A2d 375, 379 (1999).

Affirmed.

/s/ Brian K. Zahra

/s/ Peter D. O'Connell

/s/ Karen M. Fort Hood