

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of H.B., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL BRYAN,

Respondent-Appellant,

and

MARISA A. GARCIA,

Respondent.

UNPUBLISHED
February 18, 2010

No. 293578
Presque Isle Circuit Court
Family Division
LC No. 07-000022-NA

In the Matter of H.B., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARISA A. GARCIA,

Respondent-Appellant,

and

MICHAEL BRYAN,

Respondent.

No. 293579
Presque Isle Circuit Court
Family Division
LC No. 07-000022-NA

Before: K. F. Kelly, P.J., and Jansen and Zahra, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right the order terminating their parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (j). We affirm.

I. Basic Facts

The child first came under the court's jurisdiction in June 2007. She had been found outside in a parking lot unattended and respondent mother was suspected of drug or alcohol use at the time. Subsequently, both parents admitted to using alcohol and marijuana. In January 2008, the court's jurisdiction was terminated after respondents successfully completed substance abuse counseling. However, petitioner filed a new petition the same day because the child was found unattended in an intersection, while respondent father was at a bar and respondent mother was asleep at home. The goal of the renewed petition was reunification and both parents were ordered to comply with a parent agency treatment plan, requiring them to successfully address their substance abuse issues. Respondent mother was also expected to address her mental health issues. However, both respondents continued to use alcohol throughout much of 2008. In addition, respondent father continued to test positive for marijuana and was convicted of manufacturing and delivery of marijuana in early 2009. Respondent mother also failed to complete inpatient treatment twice and failed to successfully address her mental health problems. The trial court terminated respondents' parental rights in July 2009.

II. Statutory Grounds for Termination

Respondents first argue that the trial court erred by finding clear and convincing evidence in support of the statutory grounds for termination. We disagree. We review for clear error the trial court's determination that the petitioner established a statutory ground for termination. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). In a termination proceeding, a petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003).

Here, the trial court found that clear and convincing evidence supported termination under MCL 712A.19b(3)(c)(i). This provision provides that a court may terminate a parent's parental rights to a child if "the conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." The trial court's finding was not erroneous. Our review of the record shows that respondent father continued to use alcohol and marijuana, committed a drug-related crime, and was increasingly inconsistent in visiting his daughter. Respondent mother appeared to be making a greater effort; however, she failed to complete two different inpatient treatment programs and failed to address her mental health issues. This evidence sufficiently supports the trial court's finding with respect to MCL 712A.19b(3)(c)(i).¹ Accordingly, respondents' argument fails.

¹ Because there was sufficient evidence of one statutory ground, it is unnecessary for us to
(continued...)

III. Best Interests

Respondents next argue that the trial court erred in finding that termination was in the child's best interests. We do not agree. We also review for clear error the trial court's best interests finding. *In re Trejo Minors, supra* at 356-357.

If a trial court finds that grounds for termination have been established, as it did here, then it must consider whether termination is in the child's best interests; if termination is in the child's best interests, then it must order termination of the parent's parental rights. MCL 712A.19b(5). In considering the child's best interests, the bond between each respondent and the child is relevant, see *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004), as is the child's need for permanence, *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991).

Here, the child's counselor testified that the child was in need of permanence, had failed to sufficiently bond with respondents, and had effectively said good-bye to her parents. In the counselor's opinion, the child would regress to her aggressive behaviors if returned to respondents. Moreover, the child's foster mother testified that the child did not even want to attend visitations with respondents. Clearly, respondents cannot provide the child with the permanency she deserves given the fact that the child has remained under the court's jurisdiction for over two years while respondents have failed to rectify the circumstances that led to termination. Accordingly, the trial court did not clearly err when it held that termination of respondents' parental rights was in the child's best interests.

IV. Reunification Efforts

Finally, respondents argue that petitioner failed to make reasonable efforts to reunify them with their child. We disagree. It is true that petitioner must make reasonable efforts to rectify the problems in the home through a service plan. *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005). Failure to do so can affect whether there was sufficient evidence to terminate parental rights, if the respondents would have fared better with additional services. *Id.* at 542-543.

However, the services provided in this matter were sufficient. Respondents argue that they should have received certain documents but do not explain what unknown facts those documents contained or how respondents would have fared better as a result. Respondent mother also contends that she should have received more assistance after she moved; however, our review of the record reveals that she was able to secure the services she contends should have been provided. The only service respondents requested and did not receive was family counseling. Nonetheless, petitioner reasonably withheld this service. Family counseling would have been provided had respondents gained control of their substance abuse and mental health issues. Respondents, however, never gained control of these issues. Petitioner made reasonable efforts to reunify respondents with the child.

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analyze whether the evidence was sufficient as to other statutory grounds. See *In re JK, supra* at 210.

Affirmed.

/s/ Kirsten Frank Kelly

/s/ Kathleen Jansen

/s/ Brian K. Zahra