

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEVIN THOMAS BROOKS,
CHARLES ANDREW BROOKS, and LEHA
MARIE ELLEN BROOKS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DENNIS MICHAEL BROOKS,

Respondent-Appellant.

UNPUBLISHED

May 11, 2010

No. 293891

Oakland Circuit Court

Family Division

LC No. 06-726129-NA

Before: TALBOT, P.J., and FITZGERALD and M. J. KELLY, JJ.

PER CURIAM.

Respondent-father Dennis Michael Brooks appeals as of right the trial court's order terminating his parental rights to the three minor children under MCL 712A.19b(3)(c)(i), (g), and (j). Because we conclude that there were no errors warranting relief, we affirm.

To terminate parental rights, the trial court must find that a statutory ground for termination is established and that termination is in the children's best interest. MCL 712A.19b(5). This Court reviews the trial court's findings that a statutory ground for termination has been established and that termination is in the best interest of the children for clear error. MCR 3.977(J); *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is 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). Regard is given to the special ability of the trial court to judge the credibility of the witnesses who appear before it. MCR 2.613(C); *In re Fried*, 266 Mich App at 541.

The trial court terminated Brooks' parental rights under MCL 712A.19b(3)(c)(i), (g), and (j), which provide:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) 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.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

The trial court had the opportunity for almost three years to judge the credibility of the various persons involved in this case. As the court recognized, there is no doubt that Brooks loves his children and that, at least with respect to the boys, he had bonded with them. However, Brooks' love and bond with the children were not the focus of the termination proceedings—the focus was on the best interests of the children. The children needed stability, proper care and custody, and a safe environment in which to mature. The record supports the trial court's findings that, during the nearly three years that this case ensued, Brooks failed to demonstrate that he could provide such an environment.

From the very onset of this case in March 2007, the trial court impressed on Brooks that he needed to accept responsibility for his actions in order to progress. This was reiterated in June 2007 when the court admonished him for the same behaviors that led to the children's removal and warned him that he needed to not only participate in and complete the services, but also to demonstrate that he had benefited from them. Despite these admonitions and despite the fact that Brooks completed the majority of his required services, he continued to shift the blame for his positive drug screens, misrepresent or lie about the persons with whom he associated and invited into his home, and failed to understand how his behaviors contributed to the need to remove his children from his care. Indeed, Brooks permitted a sex offender to frequent his home and only prohibited this person from visiting when the court ordered him to do so—that is, visitation did not cease because he understood and appreciated the potential risk it posed, but only because he was told he had to. Even at the termination and best interests hearings Brooks continued to blame others for the fact that his children had yet to be returned. This is clear evidence that Brooks did not benefit from the services provided to him.

Brooks does not recognize that his poor lifestyle choices, which he repeatedly tries to trivialize, are the very evidence that he had failed to rectify the conditions that led to the adjudication and that he would be unable to do so within a reasonable time considering the ages of the children, MCL 712A.19b(3)(c)(i), that he failed to provide proper care or custody and would be unable to do so within a reasonable time, MCL 712A.19b(3)(g), and that there was a reasonable likelihood that, *based on his capacity or conduct*, the children would be harmed if returned to his care, MCL 712A.19b(3)(j). Throughout the three years that he was provided with

services, Brooks demonstrated that he placed a higher value on continuing his preferred lifestyle than he did on the wellbeing of his children. On this record, we cannot conclude that the trial court clearly erred in finding that the listed statutory grounds had been established by clear and convincing evidence.

Though arguably a more difficult determination, it was also not clearly erroneous for the trial court to find that termination was in the best interests of the children. This case languished for nearly three years because, at every attempt to move toward reunification, Brooks engaged in behavior that led to a new setback. Only at the best interest hearing did Brooks suggest that he would now “do whatever it takes” to get the children returned. However, he had nearly three years to accomplish his objectives and was unable, or unwilling, to do so. The children need stability, safety, and proper care and custody sooner rather than later. Brooks’ inability to appreciate the inappropriate nature of his associations, activities, and housing decisions during the three years that he was provided with services, demonstrated that he would not be able to provide the children with the stability, safety, and proper care and custody that they had the right to expect.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Talbot
/s/ E. Thomas Fitzgerald
/s/ Michael J. Kelly