

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

July 13, 2010

In the Matter of HEFT, Minors.

No. 295649

Saginaw Circuit Court

Family Division

LC No. 08-031536-NA

Before: TALBOT, P.J., and FITZGERALD and DAVIS, JJ.

PER CURIAM.

Respondent mother, A. Kinville appeals as of right from the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interest of the children. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court 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); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to 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); *Miller*, 433 Mich at 337.

Termination of parental rights was proper under MCL 712A.19b(3)(c)(i) and (g) because the conditions that led to the adjudication continued to exist and because respondent was unable to provide proper care and custody of E. Heft, J. Heft and M. Heft. The children were adjudicated as temporary court wards because respondent had a substance abuse problem. Respondent's drug and alcohol abuse, lack of suitable housing and employment, and her involvement with a man who had been violent toward her also interfered with her ability to properly care for the children. Although respondent ended her violent relationship with the children's father by the time of the permanent custody hearing, she never obtained suitable, independent housing, or demonstrated an extended period without drug and alcohol use. Respondent admitted to using alcohol on May 13, 2009 and also took Valium without a prescription in that same month. Respondent used alcohol as recently as July 28, 2009. Given that respondent lacked housing and employment, had a history of domestic violence, and had not demonstrated an ability to maintain a substance-free lifestyle for any substantial period of time,

and there was no way to know how long it would take her to do so, the trial court did not err in terminating her parental rights under MCL 712A.19b(3)(c)(i) and (g).

Termination of respondent's parental rights was also proper under MCL 712A.19b(3)(j). The children would be exposed to risk of harm if returned to respondent's care due to her history of drug and alcohol use and her failure to address her issues of domestic violence. Furthermore, respondent lacked suitable housing for the children and employment to support them.

The trial court also did not err in its best interest determination. MCL 712A.19b(5). It is in the children's best interest to be in a drug free, safe environment, and respondent has not been able to demonstrate that she can provide one. It is also in the children's best interest to be in an environment that does not include domestic violence. There is no evidence that respondent has addressed her domestic violence issues and will be able to avoid violent relationships in the future. The children deserve a caregiver who can prioritize them. Respondent's eleventh hour effort to achieve sobriety demonstrates her lack of commitment to these children who have been waiting for a safe and stable home. "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).

It is also in the children's best interests to be with a caregiver who can provide for their basic needs, unlike respondent. Respondent never obtained independent, suitable housing and has a history of a domestic violence relationship that threatens her and her children. Her problems will require a great deal of treatment and will not improve in a short period of time. Termination of parental rights is therefore in the children's best interests.

Affirmed.

/s/ Michael J. Talbot
/s/ E. Thomas Fitzgerald
/s/ Alton T. Davis