

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

July 27, 2010

In the Matter of BROWN, Minors.

No. 295962

Wayne Circuit Court

Family Division

LC No. 01-400130-NA

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Before: FORT HOOD, P.J., and BORRELLO and STEPHENS, JJ.

PER CURIAM.

Respondent mother appeals by right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Termination of parental rights requires a finding that at least one of the statutory grounds contained in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350, 356-357; 612 NW2d 407 (2000). Once a statutory ground has been proven, the trial court must order termination of parental rights if it finds that termination is in the children's best interests. MCL 712A.19b(5). Trial court findings are reviewed for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich at 356-357. A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made, giving due regard to the trial court's opportunity to observe the witnesses who appeared before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in finding that statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. The minor children initially came within the court's jurisdiction largely because of respondent's substance abuse, her untreated bipolar disorder, and domestic violence. When the termination hearing began 27 months later, undisputed evidence established that respondent was still abusing illegal drugs. In fact, the only drug test she ever took during this case was on the final day of testimony in the termination hearing, and that drug test was positive. Respondent admitted that she knew she was under court order to submit to drug testing, she admitted that she had never complied, and she admitted that she continued to use drugs. The evidence also clearly established that respondent continued to take her prescribed psychotropic medication only when and how she chose to do so, and that she chose not to take some medications at all. Finally, clear evidence established that respondent never completed the recommended services to deal with the domestic violence issue.

Respondent was unable to rectify the conditions that led to adjudication in the 27 months between the time the children were first removed from her custody and the time that her rights were terminated. Given the evidence, the trial court did not clearly err in holding that respondent had failed to rectify the conditions that led to adjudication, and that there was no reasonable likelihood that she would be able to do so in a reasonable time, considering the children's ages and special needs.

The evidence also established that respondent failed to provide proper care and custody for the minor children from the time they were born, despite having been offered long term and extensive assistance from the DHS. The children lived their entire lives with a drug-addicted, mentally ill mother who had a history of violent assault. She left the children alone, did not keep them clean, did not feed them properly, and either hurt them physically or allowed them to be hurt. Respondent was under court order to equip herself to provide proper care and custody of her children by conquering her drug addiction, complying with treatment for her bipolar disorder, and dealing with her anger and domestic violence issues. As discussed above, the evidence clearly showed that she failed to accomplish any of these objectives. Respondent's failure to comply with the court's order is indicative of continuing neglect. *In re Trejo*, 462 Mich at 361 n 16. The trial court's holding that respondent failed to provide proper care and custody for the minor children, and that there was no reasonable expectation that she would be able to do so within a reasonable time, was not clearly erroneous.

Although respondent argues that she never hurt her children, the evidence clearly established that respondent did harm her children. It may or may not have been respondent who caused the many cuts and bruises that were on the children when she left them at the Inkster police station; however, a child is at risk of harm if entrusted to the care of a violent, mentally ill, drug-addicted mother with a past history of severely neglecting them. Respondent's failure to substantially comply with the court-ordered case service plan, as discussed above, "is evidence that return of the child to the parent may cause a substantial risk of harm to the child's life, physical health, or mental well being." *In re Trejo*, 462 Mich at 346 n 3; MCR 3.976(E)(2). Considering this evidence, the trial court did not clearly err in finding that there was a reasonable expectation that the minor children would be harmed if they were returned to respondent's home.

We find no clear error in the trial court's conclusion that the evidence clearly and convincingly established the grounds for termination of parental rights set forth in §§ 19b(3)(c)(i), (g), and (j). Nor do we agree with respondent's argument that the DHS failed to make reasonable efforts to reunify the children with her because the worker never spoke directly with respondent's psychiatrist. Under most circumstances, the statute requires the state to make "[r]easonable efforts to reunify the child and family." *In re Rood*, 483 Mich 73, 100; 763 NW2d 587 (2009), quoting MCL 712A.19a(2). The adequacy of the state's attempts to provide services "may bear on whether there is sufficient evidence to terminate a parent's rights." *In re Rood*, 483 Mich at 89, citing *In re Fried*, 226 Mich App at 542.

It is true that the DHS worker testified that she had not spoken to the psychiatrist directly, but she also testified that she had talked to respondent's therapist monthly, which was the normal method of communication in the treatment center. This is not a close case. The evidence was more than sufficient to allow the trial court to make a sound decision about whether respondent would be able to rectify her former neglect of her children and take care of them properly within a reasonable time. Clear and convincing evidence established that the services were appropriate,

and respondent failed to fully avail herself of, and benefit from, these services. The DHS made reasonable, though unsuccessful, efforts to correct the circumstances that led to respondent losing her parental rights to her children.

Finally, respondent argues that the trial court erred by finding that termination was in the children's best interests, citing Michigan's policy favoring the preservation of family unity, because the DHS admitted there is a bond, and a relationship, between herself and the children. Again, we disagree. The existence of a bond between parent and child can be outweighed by other considerations in determining the best interests of children. See, e.g., *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). Here, the record as a whole established that termination of respondent's parental rights was in the minor children's best interests. Respondent had not complied with treatment for her bipolar disorder and was still actively abusing illegal drugs at the time of the termination hearing. Respondent was unable to provide stability and permanence, for which her children had a special need, because of her drug addiction and mental illness. The children had been in foster care for 27 months, and the evidence clearly established that they improved greatly while in foster care. The trial court did not clearly err by finding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Stephen L. Borrello  
/s/ Cynthia Diane Stephens