STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
October 21, 2010

In the Matter of PATE/ALLEN, Minors.

No. 296433
Jackson Circuit Court
Family Division
LC No. 08-003464-NA

Before: O'CONNELL, P.J., and BANDSTRA and MARKEY, JJ.

PER CURIAM.

Respondent-mother appeals by right the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).[1] We affirm.

In 2005, the children were placed in a guardianship with respondent's uncle while respondent and the children lived in Alabama. Respondent and the children eventually moved to Michigan. According to the petition that was filed in the Jackson Circuit Court, respondent requested the guardianship be terminated, but she was extradited back to Alabama on an outstanding warrant. Then, in October 2008, the uncle requested termination of the guardianship of the two oldest children because of their behavioral problems. On November 5, 2008, a petition regarding all five children was filed alleging that respondent and the children's father used drugs, that the children's father assaulted respondent, and that there was minimal food in the home. The three youngest children were removed from this petition since their guardianship with the uncle was still in place. An amended petition, which included all five children, was eventually filed following the later termination of the guardianship of the three youngest children.

In a statement of question presented, respondent asks whether the trial court properly terminated her parental rights pursuant to MCL 712A.19b(3)(c), (g), and (j). However, respondent only addresses MCL 712A.19b(3)(c)(i) and (g) in her brief, arguing that petitioner failed to present any evidence that the conditions leading to adjudication continued to exist and that termination was not proper under subsection (3)(g) because she complied with the parent-

[1] The trial court also terminated the parental rights of the father, but he did not appeal the decision, and, thus, is not a party to this appeal.

agency agreement. Respondent fails to address the trial court's decision with regard to MCL 712A.19b(3)(j), which provides for termination when there is a reasonable likelihood, based on the parent's conduct or capacity, that the children will be harmed if returned to the parent's care. In order to terminate respondent's parental rights, the court must find that least one of the statutory grounds has been met by clear and convincing evidence. MCL 712A.19b(3); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Because "[i]t is axiomatic that where a party fails to brief the merits of an allegation of error, the issue is deemed abandoned," *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999), this Court may assume that the trial court did not clearly err in finding that the unchallenged ground was proven by clear and convincing evidence. In addition, respondent's failure to address an issue that must be necessarily reached in order to reverse the trial court precludes appellate relief. *City of Riverview v Sibley Limestone*, 270 Mich App 627, 638; 716 NW2d 615 (2006). Therefore, we conclude that respondent's failure to address the trial court's decision regarding MCL 712A.19b(3)(j) precludes relief with respect to the existence of a statutory ground for termination of her parental rights.

Even if we were to consider respondent's argument that termination was not warranted under MCL 712A.19b(3)(c)(i) and (g), we would find that clear and convincing evidence was presented warranting termination under the above statutory grounds. This Court reviews for clear error the trial court's factual findings as well as its ultimate decision that a statutory ground for termination of parental rights has been proved by clear and convincing evidence. MCR 3.977(J); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). A finding is clearly erroneous when although there is evidence to support it, the reviewing court on the basis of all evidence is left with the definite and firm conviction that a mistake has been made. *Id.*; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent did not fully engage in the services offered to her; evidence revealed that respondent initially did not regularly attend therapy with her first therapist and missed drug screens. Although respondent testified that she had begun attending group meetings and individual therapy with another therapist, there was testimony that respondent required a year of sobriety from all mood altering substances. Testimony further revealed that respondent was referred to Safe House to address the domestic violence she experienced while living in Alabama with the children's father. Respondent testified that staff at Safe House told her that they could not help her because the domestic violence occurred in Alabama a number of years ago. However, respondent did not provide this information to the caseworker. Although respondent completed a six-week parenting class, evidence showed that respondent had not benefited from doing so. Respondent's first therapist was asked if respondent ever made progress in recognizing the situations where she exposed the children to domestic violence, and the therapist stated:

> I don't believe so. There was one session where she seemed to get in touch with some emotions and she became very tearful and said that she knew she had hurt her children. But she wasn't able to really go specifically into what she did. Overall, she continued to blame the situation on her relative who had guardianship of the children.

This Court has stated that "it is not enough to merely go through the motions; a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody." See *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005), superseded by statute on other grounds *In re Hansen*, 285 Mich App 158; 774 NW2d 698 (2009).

On the record before us, we conclude that the trial court did not err in finding that clear and convincing evidence proved that the conditions that led to adjudication, i.e., respondent's substance abuse, lack of parenting skills, and domestic violence, continued to exist and that there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the children's ages. MCL 712A.19b(3)(c)(i). This same evidence also supports the trial court's finding that respondent failed to provide proper care and custody for her children and that there was no reasonable expectation that she would be able to provide such care within a reasonable time considering the children's ages. MCL 712A.19b(3)(g).

Once the trial court finds a statutory basis for termination has been established by clear and convincing evidence, it must order termination if "termination of parental rights is in the child's best interests." MCL 712A.19b(5). Respondent admits that the children have many issues of their own. Dr. Thomas Muldary, who performed psychological evaluations of respondent and the children, stated that it appeared that the children were exposed to an unstable home environment characterized by domestic violence, alcoholism and drug dependence, physical abuse, neglect, and inadequate supervision. Dr. Muldary concluded that each of the children showed evidence of a "loose and insecure attachment to their mother, each child harbors considerable anger and resentment toward her, and [respondent's daughter] is the only one who would prefer to live with her."

These children were out of respondent's care for a number of years. They needed a safe and stable environment, which respondent was not able to provide at the time of termination hearing. Thus, we find that the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5).

We affirm.

/s/ Peter D. O'Connell
/s/ Richard A. Bandstra
/s/ Jane E. Markey