STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of WARRICK-MATNEY/MANNINEN, Minors.

UNPUBLISHED
October 26, 2010
No. 297487
Genesee Circuit Court
Family Division
LC No. 09-125894-NA

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

PER CURIAM.

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

In order 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 established by clear and convincing evidence. MCR 3.977; *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). This Court reviews a trial court's determination that clear and convincing evidence has been presented to establish grounds for termination for clear error. MCR 3.977(K); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). 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 Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent argues that there was not clear and convincing evidence presented at trial to support termination of her parental rights. We disagree. Petitioner presented ample evidence that respondent failed to provide proper care or custody of her children, that she would be unable to do so within a reasonable time, and that the children would be at risk of harm if returned to respondent's care. MCL 712A.19b(3)(g) and (j). When considering the statutory grounds, the trial court accurately focused upon respondent's ability – or rather, her inability – to protect her children. The evidence clearly supported a finding that, not only did respondent fail to protect her children, she actually created the dangerous environment within which the children were being raised.

The evidence presented at trial established that respondent displayed a consistent pattern of poor judgment, placing her children at risk of harm, dating back at least a decade. She repeatedly entered into relationships with violent individuals and/or convicted pedophiles, thereby exposing her children to unreasonable risks. In 1998, respondent's oldest son, not a subject of this appeal, was shaken so violently by respondent's then boyfriend that he sustained brain damage. Permanent custody was sought; however, the hearing never went forward because respondent ultimately elected to voluntarily release her parental rights in 2000. In the ensuing

years, respondent engaged in two relationships with convicted pedophiles, planning to marry one of these individuals while he was in prison, and taking measures to make him her daughter's legal father despite the fact that it was impossible for him to be her biological father.

In 2009, respondent impulsively invited a man to live in her home that she had met on the internet and with whom she had only spent one day. The sexual molestation of her daughter began immediately upon his arrival and continued for months. Then, when respondent witnessed the abuse herself, she did not immediately contact the police or remove the perpetrator from her home; rather, she allowed him to continue to be alone with her daughter thereafter. As a result, the perpetrator capitalized on the opportunity given him by respondent to sexually abuse the child one more time. Respondent apparently learned nothing from these events as she continued to permit questionable individuals to live in her home. Shortly after the children were removed from her care, respondent invited an old friend that she knew to be an alcoholic and cocaine addict to stay with her. Perhaps most telling regarding respondent's ability to protect her children was her own testimony that she has remained friends with a convicted pedophile, and that she intended to permit him to see the children after his release from prison. Based upon the totality of this evidence, the trial court did not err when it terminated respondent's parental rights pursuant to MCL 712A.19b(3)(g), (i), (j) and (l).

Having determined that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) was established by clear and convincing evidence, the trial court was next required to determine whether termination of respondent's parental rights was in the children's best interest. MCL 712A.19b(5). Based on the evidence presented at trial, the trial court affirmatively concluded that termination of respondent's rights was in the children's best interest. Plaintiff asserts that this determination was in error. We disagree.

We review a trial court's decision regarding best interests under the clearly erroneous standard. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). As previously noted, 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 Miller*, 433 Mich at 337.

Respondent asserts that there was not clear and convincing evidence that termination of parental rights was in the children's best interests because a bond existed between respondent and her children. Although a bond may have existed between respondent and her daughter, the trial court found that this bond was unhealthy. It noted, among other things, the abandonment that the daughter experienced based upon her mother's conduct after she witnessed the sexual molestation. And, the trial court also noted that, on balance, the risk of harm greatly outweighed the bond that may have existed between respondent and her children. Considering the record presented, establishing a decade-long pattern of exposing the children to dangerous situations and demonstrating respondent's inability to put the needs of her children for a safe environment ahead of her own desire to maintain abusive and dangerous relationships, including with a convicted pedophile, the trial court did not clearly err by determining that termination of respondent's parental rights was in the children's best interest. *In re Rood*, 483 Mich at 90-91.

We affirm.

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