STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
December 16, 2010

In the Matter of BELL/MERIWEATHER, Minors.

No. 297772
Wayne Circuit Court
Family Division
LC No. 09-485127

In the Matter of A. BELL, Minor.

No. 297774
Wayne Circuit Court
Family Division
LC No. 09-485127

Before: JANSEN, P.J., and SAWYER and O'CONNELL, JJ.

PER CURIAM.

In these consolidated appeals, respondent mother appeals as of right from orders terminating her parental rights to her three older minor children, Z.N.U. Bell, A. L. Meriweather, and Z.G.O.M. Bell, under MCL 712A.19b(3)(b)(*ii*), (g), and (j), and to her youngest child, A. Bell, under MCL 712A.19b(3)(g), (j), and (l). Respondent father appeals as of right from the order terminating his parental rights to his child, A. Bell, under MCL 712A.19b(3)(g), (h), (j), (k)(*ii*), and (l). We affirm.

Respondents argue that the trial court clearly erred in finding sufficient evidence to terminate their parental rights. Termination of parental rights requires a finding that at least one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010); *In re Trejo*, 462 Mich 341, 350, 356-357; 612 NW2d 407 (2000); *In re B and J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). The trial court must then order termination of parental rights if it finds that termination is in the children's best interests. MCL 712A.19b(5). The trial court findings are reviewed for clear error. MCR 3.977(K); *Mason*, 486 Mich at 152; *Trejo*, 462 Mich at 356-357; *B and J*, 279 Mich App at 177. A finding is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake was committed, giving due regard to the trial court's opportunity to observe the witnesses. *Mason*, 486 Mich at 152; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *B and J*, 279 Mich App at 17-18.

Previously, respondent father's rights to A. L. Meriweather were terminated on July 29, 2009, under MCL 712A.19b(3)(g), (h), (j), (k)(*ii*), and (n)(*i*). This Court affirmed. *In re AM*, unpublished opinion per curiam of the Court of Appeals, issued May 27, 2010 (Docket Nos. 293762; 293763). In this earlier opinion, the panel found termination proper because the father engaged in repeated sexual penetration with A. L. Meriweather's half-sister, "TM1," over at least a two-year period starting when she was four, five, or six years old. The father was convicted of four counts of first degree criminal sexual conduct (CSC I) and one count of second degree criminal sexual conduct (CSC II). He was sentenced to 25 to 45 years' imprisonment. The evidence also showed that the father struck TM1 repeatedly with a belt, threw TM1 against the wall, and abused TM1's mother in the presence of their children.

We find that the evidence was clear and convincing in the present case to prove MCL 712A.19b(3) (g), (j), (k)(*ii*), and (l) with respect to respondent father. Under the doctrine of anticipatory neglect and abuse, a parent's treatment of other children may be used to predict probable treatment of another child. *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001); *In re Powers*, 208 Mich App 582, 588-589; 528 NW2d 799 (1995). Further, the evidence showed that respondent father sexually abused Z.G.O.M. Bell and physically abused respondent mother repeatedly. He had a lengthy criminal history, including child abuse and drug and weapon convictions. Clear and convincing evidence supported termination of his parental rights to A. Bell.

Respondent father's argument that he was denied due process by petitioner's failure to offer him services is clearly lacking in merit. Efforts to reunite respondent father with his child were not required because he was convicted of CSC I involving penetration with her half-sister, TM1. MCL 712A.19a(2)(a); MCL 722.638(1)(a)(ii).

Respondent father correctly argues that, under MCL 712A.19b(3)(h), petitioner was required to prove that he had not fashioned a plan to care for AB while he was incarcerated. See *In re Mason*, 486 Mich at 160-161. In the present case, AB was cared for by respondent mother or her relatives and there was no evidence that respondent father would have offered a different plan or could have in the future. However, even if subsection (h) was not proven by clear and convincing evidence, the other subsections were, and only one subsection need be proven to terminate parental rights. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Respondent mother likewise argues that the evidence was insufficient to terminate her parental rights to the minor children. However, respondent mother knew that the father was charged with sexually abusing his other child and still allowed him to be around her children. Z.G.O.M. Bell also told police that respondent father sexually abused her. Her statements were found admissible in a "tender years" hearing under MCL 3.972(C). Further, this child said that respondent mother told the children not to tell. The evidence also showed that respondent mother became pregnant with A. Bell within a month of hearing the allegations of sexual abuse against the father. While her response of not believing the child at first was normal according to her therapist, her actions placed her children in danger. Previously, respondent father had been domestically violent with respondent mother many times in the children's presence. She would leave and go to her mother's home with the children, but she always returned and did not seek help on her own. While she testified that she did call police on some occasions, she did not follow through by getting a personal protection order (PPO), filing criminal complaints, or telling respondent father that he would be prosecuted if he came near her and her children again.

These steps, according to psychologist Robert Geiger, would have shown that she had gained insight and internalized her responsibility to protect the children.

There is some force to respondent mother's argument that she had insufficient time to improve, but the evidence established that more time and services would have been unlikely to produce sufficient improvements to safely return the children. Respondent mother hid the children from petitioner and her actions did not inspire confidence that she would protect her children in the future. The trial court did not clearly err in finding clear and convincing evidence to terminate respondent mother's parental rights to her three older minor children under MCL 712A.19b(3)(b)(*ii*), (g), and (j), and to the youngest child under MCL 712A.19b(3)(g) and (j).

Respondent mother does have one meritorious argument concerning MCL 712A.19b(3)(l) and the termination of her rights to her youngest child, A. Bell. Subsection (l) requires that "a parent's rights to another child were terminated . . . ." Here, when the hearing involving A. Bell was held, the order terminating respondent mother's parental rights to the three older children had not been entered, although the court had delivered its oral opinion. "A court speaks through its written orders and judgments, not through its oral pronouncements." *In re Contempt of Henry*, 282 Mich App 656, 678; 765 NW2d 44 (2009). Thus, there was insufficient evidence to prove subsection (l) with respect to respondent mother. However, because other grounds exist, we need not reverse on this basis.

Lastly, respondent mother argues that the court clearly erred in finding termination of her parental rights to be in the children's best interests. She did have a close bond with her older children and was making good progress in therapy. However, the children had been subjected to many years of domestic violence in respondents' home, and respondent mother had failed to prevent contact between her children and respondent father after learning of CSC charges against him. She even told psychologist Geiger that the father was "the only one that would do" for her. Further, the mother was cut from parenting classes for nonattendance, and she failed to cooperate and hid the children from petitioner during the pendency of the case. We find no clear error in the trial court's best interests ruling. MCL 712A.19b(5); *Trejo*, 462 Mich at 356-357.

Affirmed.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Peter D. O'Connell