STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
December 16, 2010

In the Matter of SMITH, Minors.

No. 298587
Jackson Circuit Court
Family Division
LC No. 08-002951-NA

Before: MARKEY, P.J., and WILDER and STEPHENS, JJ.

PER CURIAM.

Respondent mother appeals as of right from the termination of her parental rights to the minor children under MCL 712A.19b(3)(b)(*i*) (physical abuse to child or sibling), (c)(*i*) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if child returns to parent's home). We affirm.

Respondent first argues that the trial court clearly erred in finding sufficient evidence to terminate her 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); MCR 3.977(H)(3). 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.

In the present case, the court did not clearly err in finding clear and convincing evidence to support the statutory grounds for termination of respondent's parental rights. Respondent was convicted of fourth-degree child abuse in connection with injuries she caused to her youngest child, then three months old. After the children were removed, a parent agency agreement (PAA) was drafted, and respondent was provided with numerous services to facilitate reunification. These included a psychological evaluation, individual therapy, drug screens, parenting classes, one-to-one parenting training with a masters-level clinician, and evaluation by a psychologist who regularly worked with the probate court. The court noted several positive

aspects of respondent's situation, for instance, that she had a source of income, a high school diploma, and a clean apartment. In addition, respondent completed probation for the child abuse conviction. Moreover, respondent spoke in a thoughtful and articulate manner when interviewed by psychologist Deborah Hansen. Hansen also found her capable of learning, self-evaluation, and self-reflection. However, Hansen was unable to articulate a time in which respondent might be expected to gain the competence necessary to be an adequate parent.

The evidence showed that respondent's weaknesses clearly outweighed her strengths as a parent. She was unable, after a year of intense parenting assistance, to manage her children at visitations. She had difficulty keeping the children safe. On one occasion, respondent was so focused on one child that the other child jumped on a chair, fell off, and was injured. Also during visitation, a case manager observed respondent express "a lot of anger," and the case manager opined that respondent's frustration had increased over the previous year of observation. Reports and testimony from expert witnesses showed that respondent would be unable, within a reasonable time, to improve enough to adequately parent the minor children. Her daughter had special needs that were slowly improving, and her young son was not yet two when the final hearing was held. Clearly, these children need a competent, vigilant parent to care for them and assure that they remain safe.

Respondent has argued that she was not given a fair chance to improve, because personnel from the agency assigned to assist her, Family Service and Children's Aid (FSCA), were biased against her, and certain services were not provided or were only partially provided. However, the trial court found no evidence of inappropriate behavior by FSCA employees, and our review of the record supports this conclusion. FSCA did use its own staff to provide therapy and parenting assistance, but these professionals had appropriate qualifications and no lack of good faith was shown.

Respondent also maintains that she received insufficient help with her anger, frustration, and depression. This argument has some force, in that a psychiatric evaluation was ordered and not provided. But as respondent correctly notes, the court has the discretion to change the PAA if it finds certain services would not be helpful or necessary. See MCL 712A.18f. Here, the failure to provide additional services did not constitute error because respondent's therapists addressed her anger and frustration and the one-to-one parenting instructor addressed the manifestations of these emotions in visitations. The weight of the evidence showed that additional services would have been unlikely to provide sufficient benefit. A parent must benefit from services in order to provide a safe, nurturing home. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005), superseded by statute on other grounds *In re Hansen*, 285 Mich App 158, 163; 774 NW2d 698 (2009). The court's findings that respondent had not benefited sufficiently, and that no other services were available to provide sufficient benefit within a reasonable time, were not clearly erroneous.

Respondent next argues that the court made insufficient findings on the issue of best interests of the children. We disagree. In child protective proceedings, "[b]rief, definite, and pertinent findings and conclusions on contested matters are sufficient." MCR 3.977(I)(1). In specifically commenting on the issue of best interests, the court found that the children needed permanence and stability. Elsewhere the court made numerous findings pertinent to best interests, such as that respondent would not be able to keep the children safe and care for them

adequately on a day-to-day basis. The court's detailed opinion contained sufficient findings and conclusion on best interests, and the court's ruling was not clearly erroneous. MCR 3.977(K); MCL 712A.19b(5); *Trejo*, 462 Mich at 355-357..

Affirmed.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Cynthia Diane Stephens