

STATE OF MICHIGAN
COURT OF APPEALS

In re HALEY/HOLTON, Minors.

UNPUBLISHED
March 17, 2016

No. 328239
Wayne Circuit Court
Family Division
LC No. 03-417674-NA

Before: K. F. KELLY, P.J., and FORT HOOD and BORRELLO, JJ.

PER CURIAM.

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

Respondent argues that the trial court erred in finding statutory grounds for termination. We disagree. “To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established.” *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). “We review for clear error a trial court’s finding of whether a statutory ground for termination has been proven by clear and convincing evidence.” *Id.*; see also MCR 3.977(K). “A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court’s special opportunity to observe the witnesses.” *In re Moss*, 301 Mich App at 80.

Termination of parental rights was proper under MCL 712A.19b(3)(c)(i), (g), and (j). At the time of the adjudication, respondent was having a difficult time caring for her then 10-year-old daughter, NMH, and the child’s younger brother, JLH, and planned to pursue a change of custody. Respondent had a history of Children’s Protective Services (CPS) involvement. She had untreated mental health issues, was unable to maintain a suitable home environment (often not having enough food or running water), and had failed to take NMH for a medical evaluation after the child was punched in the face with a closed fist by respondent’s ex-boyfriend. Respondent lied about the injury and instructed NMH to lie about it. NMH was placed with her legal father and JLH, who did not have a legal father, was placed with his maternal grandfather and later his maternal aunt.

By the time of the permanent custody hearing, respondent was still unable to provide proper care for either of her children, who would be at an even greater risk of harm in

respondent's care given new issues that had come to light involving respondent's substance use. Respondent had given birth to another daughter, who tested positive for opiates at her birth.¹ Although respondent admitted to having a substance abuse problem, and substance abuse treatment was incorporated into her treatment plan, she never addressed it. She only temporarily participated in substance abuse therapy. Respondent entered inpatient detox but left after four days and did not go to inpatient treatment as she was supposed to. She missed 56 drug screens and tested positive for opiates 20 times. She also tested positive for methadone, amphetamines, and narcotics.

Respondent also never completed mental health services to address her bipolar disorder, anger issues, ADHD, and panic attacks. She did not visit the children consistently and was inappropriate during visits, perhaps because she never completed parenting classes. Respondent disappeared and was incommunicative for three months while the children were in care. Respondent also never demonstrated the ability to maintain suitable housing. She lived in five locations during the time the children were temporary court wards and had not obtained independent housing by the time of the permanent custody hearing. She never obtained employment. Respondent's continuing chaotic lifestyle was further evidenced by her admission that she was involved in a violent relationship just months before the termination hearing.

Respondent asserts that she needed more time to comply with her treatment plan. However, the record reveals that she was given ample time to comply. The children were removed from respondent's care in June 2013 but respondent had been actively involved with CPS since 2008. Further, there was no reason to believe any additional time would motivate respondent to address her issues. Respondent's claim that a guardianship or other custody arrangement could be put into place until her issues were resolved is also without merit. Guardianship would not have provided the children with the permanency they needed, especially considering the length of the proceedings and respondent's lack of progress. Thus, the court properly terminated respondent's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j).

Respondent also argues that the trial court erred when it found that termination of her parental rights was in the children's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child[ren]'s best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012); MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child[ren] must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App at 90. This Court reviews the court's determination regarding the children's best interests for clear error. *In re Olive/Metts*, 297 Mich App at 40. "In deciding whether termination is in the child[ren]'s best interests, the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *Id.* at 41-42 (internal citations omitted).

Here, the trial court did not clearly err in finding that termination was in the minor children's best interests because respondent could not provide them with a stable and appropriate

¹ This child is not at issue in this appeal.

home environment given her substance abuse and mental health issues. Although NMH did not want respondent's parental rights terminated, the trial court properly noted that respondent's relationship with NMH was dysfunctional. Contrary to respondent's claim, the trial court did consider the child's love for her mother. However, NMH's emotional stability and physical safety needed to be a priority over any connection she had to respondent. At the onset of the case respondent had planned to change custody because she was having difficulty with NMH who had severe mental health issues, which included self-harming behavior, and needed specialized care and attention. Respondent never demonstrated the ability to meet her daughter's basic needs, let alone her special needs. The evidence showed that respondent encouraged NMH's aggressive behavior so petitioner would have to change her placement with NMH's father. NMH's behavior worsened after she saw respondent. NMH's therapist testified that continued contact with respondent was detrimental to the child's health because it caused anxiety and she regressed. NMH even admitted acting out because of respondent and that she was angry at respondent. Respondent's impropriety was clear when the child's therapist testified that respondent turned NMH's therapy session into a discussion about herself and told NMH about her own drug addiction and assaultive behavior. It was in NMH's best interests to be raised by a caregiver who would not increase her anxiety or cause her to engage in assaultive behavior.

Similarly, termination of parental rights was also in the best interests of JLH. He did not recognize respondent as a mother and there was no reason to believe there was a bond between them. He was doing well in placement with his aunt and needed to be in a safe, stable, and drug-free home environment, which respondent could not offer.² Here, it was in the children's best interests to be raised in a drug-free home environment with a stable and reliable caregiver. Respondent has not demonstrated that she is one. Thus, the trial court did not err in its best-interest determination.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood
/s/ Stephen L. Borrello

² Respondent recites the proposition that, generally, “[a] trial court’s failure to explicitly address whether termination is appropriate in light of the children’s placement with relatives renders the factual record inadequate to make a best-interest determination and requires reversal.” *In re Olive/Metts*, 297 Mich App at 43. While respondent does not make a specific argument regarding this recitation, we note that the trial court explicitly considered that JLH was placed with a relative and was well cared for, and that the placement was more favorable than placement with respondent. NMH was not in a relative placement. Thus, even assuming respondent raised this argument, the trial court did not fail to consider the children’s placement with relatives.