STATE OF MICHIGAN

COURT OF APPEALS

In re BELTRAN/HERNANDEZ/MARTINEZ/ PEMBERTON-LIZCANO, Minors.

UNPUBLISHED
October 13, 2016

No. 331964
Mackinac Circuit Court
Family Division
LC No. 2014-006110-NA

Before: MARKEY, P.J., and MURPHY and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to her four children, all of whom are Indian children, pursuant to MCL 712A.19b(3)(c)(*i*) (conditions that led to adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care or custody), and MCL 712A.19b(3)(j) (reasonable likelihood of harm if returned to parent). Respondent presents two very cursory arguments on appeal, neither of which warrants reversal. Accordingly, we affirm.

Respondent first argues that the trial court clearly erred in finding that petitioner established the statutory grounds for termination, considering that there was evidence that she had benefited from ordered reunification services. If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proved by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Moss,* 301 Mich App 76, 90; 836 NW2d 182 (2013); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). "This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The record reflects that respondent has an extensive CPS history, numerous criminal arrests, convictions, and incarcerations, serious substance abuse problems, significant mental health issues with an attendant failure to take prescribed medicines, a lack of parenting skills

adequate to address her children's substantial emotional and behavioral problems and needs, a history of not reacting appropriately to her children's conduct, a spotty work background, no independent housing, anger management difficulties, and a dismal track record relative to multiple treatment programs and compliance therewith. An earlier termination hearing resulted in findings that remedial services and rehabilitative programs had been unsuccessful, that there were statutory grounds to terminate respondent's parental rights, and that there was evidence beyond a reasonable doubt that the children would be in danger of serious emotional or physical damage if returned to respondent's care. However, the trial court concluded that it was not in the children's best interests to terminate respondent's parental rights, and she was given another opportunity to show that she could be a fit parent. Eventually, the same types of problems and issues arose, and the second termination hearing resulted in the termination order now being appealed.

An abundancy of reunification services was provided to respondent, yet many of the areas of concern identified earlier by the court remained extremely problematic at the time of the second termination trial. The record fully supports the trial court's conclusion that respondent had not made progress or benefited as a result of the proffered services. Petitioner satisfied its obligation to "demonstrate . . . that active efforts ha[d] been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that the active efforts were unsuccessful." MCL 712B.15(3). In sum, there was no clear error in the court's rulings that the statutory grounds for termination were proven by clear and convincing evidence and that there existed a preponderance of evidence showing that termination was in the children's best interests.

In her second argument on appeal, which is all of a half-page in length, respondent contends that the trial court clearly erred in finding beyond a reasonable doubt that respondent's continued custody of the children would likely result in serious emotional or physical damage to the children. MCL 712B.15(4) provides:

> No termination of parental rights may be ordered in a proceeding described in this section without a determination, supported by evidence beyond a reasonable doubt, including testimony of at least 1 qualified expert witness as described in section 17, that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

Respondent merely argues that the proof presented by petitioner did not rise to a level of beyond a reasonable doubt because the qualified Indian expert never actually met with the children. Respondent does not cite any authority or provide any supporting legal analysis for the proposition that an Indian expert is required to meet with an Indian child who is the subject of termination proceedings, nor does respondent even directly assert that there exists such a legal obligation as a matter of course. Thus, we decline to address that particular issue. Respondent also does not argue that the expert was generally unqualified to give testimony. The Indian expert here testified that she had followed the case since its inception, had reviewed the files and reports, had participated in case conferences, had attended the court hearings, and had presented the case to a tribal committee, listening to their recommendations. In the face of respondent's limited argument, we conclude that there was compliance with MCL 712B.15(4); there was more

than sufficient evidence establishing that the continued custody of the Indian children by respondent would likely result in serious emotional or physical damage to the children. Reversal is unwarranted.

Affirmed.

/s/ Jane E. Markey
/s/ William B. Murphy
/s/ Amy Ronayne Krause