

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
May 10, 2012

In the Matter of T. R. BURTON, JR., Minor.

No. 306775
Wayne Circuit Court
Family Division
LC No. 09-487391

Before: DONOFRIO, P.J., and JANSEN and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).¹ We affirm because

¹ The relevant statutes read:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

respondent did not sufficiently benefit from services and failed to address the reasons for the minor child's original adjudication.

The minor child was adjudicated a court ward after respondent left the child in the custody of an aunt for several days, despite knowing that the aunt had a history with Children's Protective Services (CPS) and had lost custody of several of her own children in the past. In May 2009, the aunt brought the 20-month-old child to the hospital with severe burn injuries. Further examination revealed that the child had numerous bruises over his body and a broken forearm. Although petitioner had requested termination of respondent's parental rights at the initial dispositional hearing, the trial court denied the request for termination, but assumed jurisdiction over the child and ordered respondent to participate in reunification services. In May 2011, petitioner filed a supplemental petition to terminate respondent's parental rights, primarily because respondent failed to make sufficient progress with her treatment plan. Following a hearing in August and September 2011, the trial court terminated respondent's parental rights.

Respondent now argues that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence, and in finding that termination of her parental rights was in the child's best interests. We disagree.

A petitioner is required to establish a statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). This Court reviews the trial court's factual findings, as well as its ultimate decision whether a statutory ground for termination has been proven, for clear error. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *Id.* Deference is given to the trial court's assessment of the credibility of the witnesses. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991). Once a statutory ground for termination has been established, the court shall order termination of parental rights if it finds "that termination of parental rights is in the child's best interests[.]" MCL 712A.19b(5). The trial court's best interests decision is also reviewed for clear error. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

The evidence supports the trial court's determination that respondent failed to substantially comply with the requirements of her treatment plan. A parent's failure to comply with a parent-agency agreement is evidence of the parent's inability to provide proper care and custody. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Although respondent complied with some aspects of her treatment plan, she failed to address the principal issues involving her mental health and substance abuse. The evidence showed that while respondent had attended counseling, she was not regularly participating in therapy, which would have included treatment by a psychiatrist for her depression. Further, the evidence showed that respondent had a history of marijuana abuse and failed to submit to a single drug test during the two-year history of this case. The trial court did not clearly err in finding that respondent failed to successfully address these two important components of her treatment plan.

The evidence also showed that respondent had not complied with other requirements of her treatment plan, and failed to benefit from services that were provided. Respondent claimed that she was earning an income from cutting hair in her home, but never produced any records of

her earnings. She never obtained a high school diploma. Although she had completed psychological and psychiatric evaluations, she never completed an evaluation at the Clinic for Child Study. Respondent belatedly enrolled in parenting classes, but failed to sign a release to allow the caseworker to find out how she was progressing in classes. According to the caseworker, it was not apparent from respondent's attendance at supervised visits that she had benefited from the classes because she continued having difficulty interacting with her son and did not display an understanding of how to properly care for the child during visits.

Given this evidence, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. Respondent failed to rectify the conditions that led to the child's adjudication and, given her lack of progress over a two-year period, she was not reasonably likely to rectify those conditions, or to be able to provide proper care and custody, within a reasonable time. Further, respondent's parenting deficiencies contributed to an environment that allowed the child to be severely injured. Because of respondent's failure to successfully address those deficiencies, there was a reasonable likelihood that the child would be harmed if returned to respondent's home.

Respondent also argues that termination of her parental rights was not in the child's best interests. Although there was evidence of a bond between respondent and the child, that bond appeared to resemble something less than a parent-child relationship. The child apparently did not have a strong attachment to respondent. The child had been in foster care for more than two years, and there was no reasonable likelihood that respondent would be in a position to regain custody and provide a safe and stable environment anytime soon. Considering the child's need for permanence and stability, which respondent was unable to provide, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Pat M. Donofrio

/s/ Kathleen Jansen

/s/ Douglas B. Shapiro