

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 5, 2012

In the Matter of J. LOVE, Minor.

No. 306783
Bay Circuit Court
Family Division
LC No. 2002-007750-NA

In the Matter of J. LOVE, Minor.

No. 306834
Bay Circuit Court
Family Division
LC No. 2002-007750-NA

Before: OWENS, P.J., and TALBOT and METER, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court's order terminating their parental rights to their minor child. Respondent mother's parental rights were terminated under MCL 712A.19b(3)(c)(i) and (g), and respondent father's were terminated under MCL 712A.19b(3)(g). We affirm.

Respondents contend that the trial court's findings were clearly erroneous and that the Department of Human Services (DHS) failed to sustain its burden of proving the statutory grounds for termination. Termination of parental rights is appropriate where one or more grounds for termination are proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re B & J*, 279 Mich App 12, 18; 756 NW2d 234 (2008). This Court reviews the lower court's findings for clear error. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

The trial court did not clearly err in finding clear and convincing evidence to establish the statutory grounds. The child was removed in February 2010, after a raid at respondents' home during which police found drug paraphernalia and records indicating drug sales. Respondents both had lengthy criminal records, and respondent mother's older children were under guardianship with her mother. Respondent father was in jail and later pleaded guilty to attempted uttering and publishing and delivery of cocaine and heroin. At the adjudication, he

admitted being a drug addict with a substance-abuse history. Respondent mother also admitted a substance-abuse problem and history.

An order of disposition was entered. Respondents were required to comply with parent-agency agreements (PAAs). The PAAs encompassed participating in mental health and substance-abuse counseling, drug screens, and parenting classes, as well as obtaining suitable housing and employment. Some of respondent father's requirements (e.g., parenting classes) could not be completed because the prison did not then offer the services.

Respondent mother's progress was uneven. She completed a 60-day inpatient substance-abuse program, but relapsed within 10 days of release. After entering treatment again, she was accepted into Drug Treatment Court. Her visits with the child were usually appropriate, and the child looked forward to seeing her mother. However, respondent mother relapsed again and was not allowed to continue in Drug Treatment Court. She also became pregnant, took Suboxone illegally and then by prescription, and did not disclose her Suboxone use to DHS or her substance-abuse counselor. Her new baby went through severe withdrawals. After the new baby was removed, respondent mother did not comply adequately with services, including visitations. She planned to plead guilty to new felony charges involving theft of checks from her grandmother and unauthorized use of her grandmother's credit cards.

As for respondent father, he did very well in his jail and prison programs. In jail, he participated in Alcoholics Anonymous, completed a Cognitive Change program, and drafted a lengthy relapse-prevention plan. His counselor later wrote a rare letter to the parole board and testified that respondent father was more invested in recovery than any prisoner the counselor had worked with. In prison, respondent father obtained a certificate from the dual-diagnosis program (substance abuse and mental health), took classes in pre-release and computer skills, and crafted posters for prison programs. All of his evaluations were quite good. However, respondent father's substance-abuse counselor testified that a year on the "outside" was a good benchmark for judging recovery after prison. The counselor thought that respondent father would do very well, but admitted that the true test would come in the community. Respondent father had a definite parole date of January 2012. After this, he would spend at least 30 days in the Tri-Cap residential corrections program. He also would need to complete parenting classes and counseling and undergo a period of reintroduction to the child.

The trial court found no reasonable likelihood that respondent mother would be able to change in a timeframe that would allow her to parent the child. After 18 months, she had been unable to rectify her issues with drug abuse and now faced serious criminal charges. We find clear and convincing evidence to support the court's determinations. MCL 712A.19b(3)(c)(i) and (g) were satisfied and supported termination of respondent mother's parental rights to the minor child.

Respondent father's case is somewhat more difficult. While he made good progress in jail and prison, his long history of crime and drug abuse, including in the presence of the child, showed a failure to provide proper care and custody. There was evidence that he misled protective service workers to try to hide a prior criminal sexual conduct conviction. His resolve to stay away from respondent mother if she continued to use drugs could not be tested while he was incarcerated. Because of his convictions and incarceration, he had been unable to visit the

child, although there was some telephone contact. In light of these circumstances, as well as the child's age and need for permanency and the testimony that respondent father would need a significant period of adjustment after prison, we cannot find that the trial court clearly erred in finding clear and convincing evidence to satisfy MCL 712A.19b(3)(g) with respect to respondent father.

We also find no clear error in the trial court's finding that termination of both respondents' parental rights was in the best interests of the child. MCL 712A.19b(5); MCR 3.977(H)(3), (K); *Trejo*, 462 Mich at 356-357; *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009). The child was approximately two and one-half years old at the time of termination and had been in foster care or with relatives for 19 months. Respondent father's incarceration and need to be reintroduced to the child, and respondent mother's lack of progress and new criminal charges, would require an additional, significant period of time. As the trial court observed, it is not in a young child's best interests to spend three years in foster care to see if her parents can be rehabilitated. She needs a permanent, safe, stable home. The court did not clearly err in finding termination of both respondents' parental rights to be in her best interests.¹

Affirmed.

/s/ Donald S. Owens
/s/ Michael J. Talbot
/s/ Patrick M. Meter

¹ Respondent father suggests that the trial court made an improper finding of fact when it stated that "[i]t is likely that regardless of the outcome, both parents will continue to have contact with the relatives who are raising their child." Respondent father suggests that the court's statement was not supported by the evidence. However, the court's statement was an allowable inference from the evidence. Further, we note that this statement was not the central facet of the court's analysis.