

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 19, 2012

In the Matter of L. C. QUINNEY and A. B.
SMITH, Minors.

No. 307157
Wayne Circuit Court
Family Division
LC No. 09-491148-NA

Before: MURRAY, P.J., and FORT HOOD and BORRELLO, JJ.

PER CURIAM.

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

Respondent argues that the trial court clearly erred in finding that the above statutory termination grounds were established by clear and convincing evidence. We disagree.

"In order to terminate parental rights, the [trial] court must find that at least one of the statutory grounds for termination . . . has been met by clear and convincing evidence." *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). This Court reviews a trial court's factual findings that a statutory ground for termination has been established for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009); MCR 3.977(K). "A finding is clearly erroneous where the reviewing court has a definite and firm conviction that a mistake has been made." *Jackson*, 199 Mich App at 25. Thus, a decision that is maybe or probably wrong is not clearly erroneous. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). In reviewing the trial court's findings of fact, this Court gives regard to the trial court's special opportunity to judge the credibility of the witnesses. MCR 2.613(C); *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

The trial court found that statutory grounds, MCL 712A.19b(3)(c)(i), (g), (i), (j), and (l), were established by clear and convincing evidence. MCL 712A.19b(3)(i) and (l) address termination of parental rights when the parent's rights to another child were terminated. The record shows, and respondent concedes, that respondent's parental rights were previously terminated in 2001 when she was a minor. Despite the prior termination, petitioner provided respondent rehabilitative services in this case, but, unfortunately, such attempts at rehabilitation were unsuccessful. During the proceedings concerning L. C. and A. B., respondent admitted that, in 2001, her parental rights were terminated after she "disappeared" for two years. Accordingly, the trial court did not clearly err in finding that statutory grounds MCL 712A.19b(3)(i) and (l) were established by clear and convincing evidence.

Although petitioner is required to only establish one ground for termination, *In re Trejo*, 462 Mich 341, 360; 612 NW2d 407 (2000), the trial court's determination regarding the other grounds was not clearly erroneous. The trial court also found statutory grounds for termination were established under MCL 712A.19b(3)(c)(i), (g), and (j). Regarding MCL 712A.19b(3)(c)(i), more than 182 days elapsed since the initial dispositional order was entered by the trial court. The children were placed in foster care in December of 2009, and the termination hearing concluded in October of 2011. The children were brought into care because respondent lacked stable housing, lacked income, and physically and emotionally neglected her children. When the children entered foster care, neither L.C., nearly four years-old, nor A. B., nearly three years-old, were potty trained and they were barely speaking. Both children had serious communication problems and behavioral issues. Since the initial dispositional hearing, respondent failed to maintain employment or secure suitable housing. To the contrary, respondent lived in various locations, several deemed unsuitable, and sporadically secured employment. While respondent alleged at the termination hearing that she obtained employment and stable housing, the trial court found that respondent lacked all credibility because her testimony was replete with lies, and this Court defers to such credibility decisions. *Fried*, 266 Mich App at 541. Further, respondent conceded she experienced on-going plumbing problems with her current residence, which deterred her from seeking a home assessment of the residence, and she failed to offer proof of her employment. *Id.* Given that respondent failed to secure suitable housing or stable employment for almost two years, it was not clearly erroneous to conclude that there was no reasonable likelihood that respondent would secure housing or employment within a reasonable time frame. Accordingly, the trial court did not clearly err in finding that statutory ground, MCL 712A.19b(3)(c)(i), was established by clear and convincing evidence as the conditions that led to adjudication continue to exist.

Similarly, the trial court did not err in finding that statutory grounds, MCL 712A.19b(3)(g) and (j), were also established by clear and convincing evidence. MCL 712A.19b(3)(g) requires clear and convincing evidence that the parent failed to provide proper care or custody and lacked the ability to provide proper care or custody. *In re Hulbert*, 186 Mich App 600, 605; 465 NW2d 36 (1990). Although respondent completed parenting classes and individual therapy, respondent failed to comply with other requirements set forth in the parent/agency agreement. As discussed above, respondent failed to secure suitable housing or stable income in nearly two years and there was no reasonable expectation that respondent would be able to provide proper care or custody within a reasonable time frame. *In re LE*, 278 Mich App 1, 27-28; 747 NW2d 883 (2008). Further, respondent failed to attend several visits, including a few visits immediately preceding the final adjudication. Even though the trial court allowed for unsupervised visits, respondent failed to meet the requirements, i.e., suitable housing and clearances, set forth by the supervising agency to facilitate such visits. She also failed to attend community visits. Most alarmingly, respondent did not attend or participate in the children's medical appointments and therapy. Ann Phillips, the foster care worker, detailed the mental and developmental needs of the children and indicated that the children were referred to various specialists for such needs. Due to her chronic failure to attend appointments and her lack of engagement in the children's medical and developmental progress, respondent did not demonstrate that she had the ability to properly care for their mental and developmental needs.

These actions further establish a finding of statutory ground MCL 712A.19b(3)(j), which addresses the potential for physical or emotional harm if the child is returned to the parent's

custody. *In re Hudson*, 294 Mich App 261, 268; ____ NW2d ____ (2011). Respondent demonstrated that she was incapable of addressing the mental and developmental needs of the children. The record shows that the children progressed, but they both needed continued mental health and developmental services. While respondent testified that she would continue with the children's treatment, respondent's actions demonstrated otherwise. When the children first entered foster care, respondent did not attend important intake appointments where her parental authorization was necessary, and she continually failed to express a sense of engagement in the children's medical and developmental needs. Further, respondent testified that she did not believe that her children had behavioral issues or special needs, thereby indicating that respondent did not truly appreciate the children's mental and developmental needs and the necessity in continuing services. Therefore, the trial court did not clearly err in concluding that respondent lacked the ability to provide proper care or custody and that if the children were returned to respondent there was a reasonable likelihood that the children would be harmed. MCL 712A.19b(3)(g) and (j).

Respondent next argues that the trial court clearly erred in finding that termination of her parental rights was in the best interests of the children. We disagree.

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). This Court also reviews a trial court's finding concerning the best interests of the children for clear error. *In re LE*, 278 Mich App at 29.

As discussed above, the children suffered from developmental and mental issues. The children had speech problems and could barely communicate when they entered foster care. L. C., in particular, exhibited aggressive and self-destructive behaviors, i.e., hitting and pinching himself. L. C. was diagnosed with A.D.H.D. and prescribed three medications. Both children were referred to speech and play therapy to address their developmental and mental needs, and they regularly attend therapy sessions. Phillips and Michelle Williams, the foster care parent, indicated that the children had made tremendous progress since entering foster care, but required continued therapy to guarantee future progress. Respondent failed to demonstrate that she would secure suitable housing, provide for the children's basic necessities, acquire employment, or provide the attention that the children needed to progress in their treatment plans. Given respondent's failure to attend visits, medical appointments, or lack of interest and engagement concerning the children's developmental and mental health needs, the trial court did not clearly err in concluding it was in the best interests of the children to terminate respondent's parental rights. MCL 712A.19b(5).

Affirmed.

/s/ Christopher M. Murray
/s/ Karen M. Fort Hood
/s/ Stephen L. Borrello