

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 14, 2012

In the Matter of L. W. HOLT, Minor.

No. 307159
Wayne Circuit Court
Family Division
LC No. 06-460016-NA

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Before: SERVITTO, P.J., and METER and FORT HOOD, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right an order terminating their parental rights to their minor child pursuant to MCL 712A.19b(3)(c)(i), (g), (i), (j), and (m). We affirm.

To terminate parental rights, the trial court must find that the petitioner has proven at least one of the statutory grounds for termination by clear and convincing evidence. MCL 712A.19b(3); MCR 3.977(H)(3)(a); *In re Sours Minors*, 459 Mich 624, 632; 593 NW2d 520 (1999). We review for clear error a trial court's decision terminating parental rights. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich at 633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). To be clearly erroneous, a decision must be more than maybe or probably wrong. *In re Sours*, 459 Mich at 633. We give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); MCR 3.902(A); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i), (g), and (j) were established by clear and convincing evidence. The conditions that led to the minor child being taken into custody at birth included respondents' extensive protective services history, the previous terminations of their parental rights to their other children in 2007 due to sexual abuse

committed by respondent-father, and medical neglect because of the lack of prenatal care. Respondents' service agreement was specifically tailored to respondents' parenting deficits and was instituted to improve their parenting skills and prevent their pattern of neglect from continuing with their new baby.

Respondents completed their psychological evaluations, psychiatric evaluations, and substance abuse assessments, but these were only one-day appointments. Respondents either could not or would not engage in the critical components of their service plans, and their situation remained unchanged during the 15 months the minor child was in custody. Respondents did not complete parenting classes despite multiple referrals and being provided door-to-door transportation to the classes. Similarly, respondents did not complete individual therapy despite multiple referrals, and therapy provided to them in their own home. Respondents were inconsistent with their parenting time visits even though petitioner gave respondents free bus passes to come to the visits and pushed the appointment time back one hour to accommodate their schedule. Even though respondents knew that they had to be consistent with their drug screens and daily call-ins in order to visit their child, they would still miss call-ins and then miss parenting time. Despite repeated accommodations, respondents missed 10 of 25 visits with the minor child.

Respondents also struggled with other components of their service plan. Respondents continued to live with relatives and never provided a lease or other proof that they had suitable and stable housing, never provided verification of a legal source of income, and would often not have phone service in order to keep in regular contact with their case worker. Also, while respondent-father stated that he had complied with the registration requirements of the sex offender statute, the address he gave petitioner as his residence did not match the address he had reported to the sex offender registry.

Respondents' behavior throughout the case displayed lack of insight into their own issues and limited judgment in dealing with those issues consistent with their psychiatric evaluations. The issues that led to the child's removal from respondents' custody continued to exist 15 months later. The clear and convincing evidence of respondents' failure to address their parenting deficits and failure to make any progress in improving their parenting skills in order to prevent their pattern of neglect from continuing with their latest child demonstrated that there was no reasonable likelihood that respondents would be able to rectify those difficulties and provide proper care and custody within a reasonable time given the child's age. "[A] parent's failure to comply with the parent-agency agreement is evidence of a parent's failure to provide proper care and custody for the child." *In re JK*, 468 Mich at 214.

Respondents next assign error to the trial court's conclusion that clear and convincing evidence supported the termination of respondents' parental rights pursuant to MCL 712A.19b(3)(i). However, respondents both misread the record and cite MCL 712A.19b(3)(f)(i), which was not a basis for termination. We need not address this issue because respondents' arguments were completely inapplicable, and a party may not merely announce a position and leave it to the Court to discover and rationalize the basis for the claim. *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992).

The trial court's reliance on MCL 712A.19b(3)(m), which involves prior voluntary terminations of parental rights, was clear error. However, because only one statutory ground for termination need be proven, *In re CR*, 250 Mich App 185, 207; 646 NW2d 506 (2002), any error in relying on §19b(3)(m) as an additional ground for termination was harmless. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Finally, respondent-mother argues that the trial court committed reversible error when it determined that termination of her parental rights was in the best interests of her minor child. While respondent-father does not raise this issue in his brief on appeal, nevertheless, we will include him in our analysis because application of MCL 712A.19(b)(5) is mandatory in termination of parental rights cases. "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.19(b)(5). A trial court may consider evidence on the whole record in making its best-interest determination. *In re Trejo*, 462 Mich at 353. We review the trial court's determination regarding the child's best interests for clear error. MCR 3.977(K).

We find no clear error in the court's best-interest determination. The minor child was very young, just 15 months old at the time of the termination order. He was taken into custody as an infant, just days after his birth. He deserves to be brought up in an environment that is healthy, stable, and permanent. While it is undisputed that respondent-mother loved the child, respondents missed 10 of 25 parenting time visits with their child and still labored with the same problems that had precipitated the child's initial removal from their custody. Respondents never demonstrated an ability to recognize their parenting deficits and showed no interest in improving their parenting skills even when custody of their newborn depended on it. Respondents did not demonstrate that they could put the needs of their child before their own and provide a safe and stable home for him. Because of respondents' lack of progress on their service plan and the child's need for permanency and stability, there was no clear error in the trial court's finding that termination of respondents' parental rights served the child's best interests.

Affirmed.

/s/ Deborah A. Servitto

/s/ Patrick M. Meter

/s/ Karen M. Fort Hood