

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 23, 2012

In the Matter of BROUSSARD/PULLEY, Minors.

No. 307180
Macomb Circuit Court
Family Division
LC No. 2008-000318-NA

Before: SAAD, P.J., and SAWYER and CAVANAGH, JJ.

PER CURIAM.

Respondent T. Pulley appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

Respondent argues that the trial court erred in finding sufficient evidence to establish a statutory ground for termination. In a proceeding to terminate parental rights, the petitioner must establish at least one of the statutory grounds for termination in MCL 712A.19b(3) by clear and convincing evidence. MCR 3.977(A)(3) and (H)(3); *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). We review the trial court's decision for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich at 356. A finding is clearly erroneous when the reviewing court is left with the definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

The trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), which permit termination under the following circumstances:

(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.

With respect to § 19b(3)(c)(i), the record discloses that the trial court assumed jurisdiction over the children because respondent abused prescription medication and lacked stable housing. The evidence showed that respondent continued to abuse prescription drugs throughout the three-year history of this case, including during her pregnancy with the youngest child, and that respondent was unable to establish safe and suitable housing. Not only were respondent's various homes not able to accommodate all of her children, but the home environment was marked with domestic violence, frequent police contacts, and persons involved in substance abuse and violence. The evidence supports the trial court's determination that respondent failed to resolve the conditions that led to the adjudication. Further, because respondent was afforded more than three years to resolve these conditions and was not able to do so, the trial court did not clearly err in finding that the conditions were not reasonably likely to be rectified within a reasonable time. Therefore, termination was justified under § 19b(3)(c)(i).

Petitioner also presented ample evidence that respondent failed to provide proper care and custody for her children, and that there was no reasonable likelihood of her becoming able to do so within a reasonable time. In addition to the recurring problems with substance abuse and unsuitable housing, respondent failed to manage her children's behavior during supervised and therapeutic visits. Respondent's children, especially CWP and SAB, developed significant psychological problems, which respondent was unable to manage. Respondent distressed SAB by fighting with respondent S. Pulley during overnight visits. Respondent's failure to make significant progress toward being able to provide proper care and custody for her children after receiving services for more than three years supports the trial court's finding that termination was appropriate under (g).

In addition, considering the evidence of respondent's chaotic and unsafe home life, the trial court did not clearly err in finding that there was a reasonable likelihood that the children would be harmed if returned to respondent's home, thereby supporting termination under § 19b(3)(j).

Respondent also argues that the trial court erred in finding that termination of her parental rights was in the children's best interests. Once a statutory ground for termination is established, the trial court shall order termination of parental rights if it finds that termination 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 JK*, 468 Mich at 209. The evidence showed that respondent's chaotic and unstable lifestyle caused her children to suffer serious psychological problems, which respondent was unable to manage. The children felt frightened and insecure because of respondent's

substance abuse, inability to respond to their needs, and frequent fighting with respondent S. Pulley. The trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Henry William Saad

/s/ David H. Sawyer

/s/ Mark J. Cavanagh