

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 4, 2012

In the Matter of T. AYERS, Minor.

No. 309694
Bay Circuit Court
Family Division
LC No. 02-007750-NA

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

PER CURIAM.

Respondent-mother appeals the trial court's order that terminated her parental rights to the minor child under MCL 712A.19b(3)(c)(i), MCL 712A.19b(3)(g), and MCL 712A.19b(3)(i). We affirm.

To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court must then order termination if it finds that termination is in the child's best interests. MCL 712A.19b(5).

"This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). "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." *Id.* We review de novo questions of law involving the application of a statute or court rule. *In re Utrera*, 281 Mich App 1, 9; 761 NW2d 253 (2008).

The trial court terminated respondent's rights under MCL 712A.19b(3)(c)(i), 712A.19b(3)(g) and (i), which provide:

(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.

* * *

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.

The court terminated respondent's parental rights for several reasons. Respondent has a long history of substance abuse, and this child was born addicted to the prescription medication Suboxone, the withdrawals from which required extensive hospitalization. The court also cited respondent's criminal history, which will keep respondent incarcerated until at least April 2013. Also, respondent's two older children were removed from her custody and her rights to her older daughter were terminated.

Respondent argues that the child was born addicted to Suboxone because respondent's obstetrician prescribed the drug. While this may be true, respondent failed to report her prescription for the drug to petitioner and admittedly obtained the drug illegally on at least one occasion. Further, the trial court's finding was based on much more than respondent's Suboxone prescription. The trial court cited respondent's recidivist criminal history, her consistent association with substance abusers and criminals, and her failure to complete any previous substance abuse treatment during her 10-year history with petitioner. Respondent testified that she wanted to achieve sobriety to retain her parental rights to the child. Again, however, she failed to do so in the case of her other children. In sum, the trial court had ample basis to terminate respondent's rights even absent the Suboxone issue.

Evidence showed that respondent rarely visited the child. DHS provided respondent with bus passes and coordinated visitation times around respondent's schedule. Respondent offered a variety of vague excuses for her failure to visit, including taking the incorrect bus and oversleeping. These excuses are unsubstantiated and contradict respondent's assertion that she would do anything to retain her parental rights to the child. Further, respondent's earliest possible release date from prison would occur when the child is nearly two years old; considering the child's age and respondent's history as a parent, the trial court did not clearly err in finding statutory grounds for termination under MCL 712A.19b(3)(g).

It is undisputed that respondent's parental rights to one of her other children were terminated due to chronic neglect stemming directly from respondent's substance abuse. Further, respondent had a treatment plan regarding that child at the time she became pregnant with the child who is the subject of this case. Respondent continued to use drugs while pregnant;

the trial court found respondent's claim that she was unaware of the pregnancy for some five months unpersuasive. Respondent presented no evidence to contradict the trial court's finding. Respondent was charged with several felonies while pregnant and continued using drugs, including Suboxone. Repeated attempts at drug rehabilitation for respondent have failed. Thus, the trial court did not clearly err in finding statutory grounds for termination under MCL 712A.19b(3)(i).

The trial court also did not clearly err in determining that termination was in the best interests of the child. MCL 712A.19b(5) provides:

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.

The child was born with an active Suboxone addiction and has never been in respondent's custody. The child will benefit from the permanency offered by adoption. Thus, the trial court did not clearly err in determining that termination was in the child's best interests.

Affirmed.

/s/ David H. Sawyer
/s/ Henry William Saad
/s/ Patrick M. Meter