STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
December 16, 2010

In the Matter of
COOPER-CRUMBLY/CRUMBLY, Minors.

No. 298760
Berrien Circuit Court
Family Division
LC No. 2008-000131-NA

Before: MURRAY, P.J., and HOEKSTRA and SERVITTO, JJ.

PER CURIAM.

Respondent-appellant appeals as of right the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(g). Because the trial court did not abuse its discretion in denying respondent's motion to dismiss, and because clear and convincing evidence supported the trial court's termination and best interest determinations, we affirm.

The children in this matter came under the jurisdiction of the trial court when their mother, respondent, became incarcerated due to a domestic violence conviction. Respondent had at least one prior domestic violence conviction, as well as several other criminal convictions; had a history of drug abuse; and, prior to her latest incarceration, resided in a home with no heat. The children's paternal grandmother had been caring for the minor children, but was no longer able to do so. When respondent failed to comply with her parent agency agreement or benefit from offered services, a termination trial commenced. At the conclusion of the trial, respondent's parental rights to the two minor children were terminated pursuant to MCL 712A.19b(3)(g).

On appeal, respondent asserts that the trial court clearly erred in finding that the statutory ground for termination of respondent's parental rights was established by clear and convincing evidence. We disagree.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). An appellate court should not reverse the findings of a trial court in such a case unless its findings are clearly erroneous. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); MCR 3.977(J). A finding is clearly erroneous if, although there is evidence to support the finding, we are left with the definite and firm conviction that a mistake has been made. *Id.*

The evidence in this matter established that respondent was unable to provide proper care for the children when the proceeding commenced because she was incarcerated, and a paternal grandmother was no longer able or willing to provide temporary custody. Evidence presented throughout the 15-month proceeding clearly established respondent's continued marijuana use, her relationship with an abusive partner, instances of domestic violence, anger issues, violations of the law, and incarcerations. Respondent regularly missed drug screens and tested positive on several of those she did attend. Respondent also missed or showed up late to several visits with the children. Despite provisions of counseling, parenting classes and offers of other services, respondent failed to address the issues that originally led to the court's jurisdiction over the children. Contrary to respondent's argument on appeal, there was no indication she had changed her life, or that petitioner sought termination merely because it was easier or less expensive than providing additional services. Sufficient evidence was presented to terminate respondent's parental rights pursuant to § 19b(3)(g).

Respondent also asserts that termination of her parental rights was not in the children's best interests. We again disagree.

Pursuant to MCL 712a.19b, 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. *In re Trejo*, 462 Mich 341, 355-357; 612 NW2d 407 (2000). Respondent argues the children were strongly bonded to her and, although evidence showed respondent was appropriate at visits and the children enjoyed seeing her, it also showed that respondent did not provide L. M. Cooper-Crumbly with primary care for the first several years of her life, that M. Crumbly was born with marijuana is her system and was removed from respondent's care at ten months of age, and respondent failed to maintain regular visits with the children during the proceeding. Given a lack of any reasonable expectation that respondent would become able to provide safe, proper parental care within a reasonable time, the trial court did not err in finding termination of respondent's parental rights in the minor children's best interests.

Respondent additionally attempts to raise several other arguments stemming from the trial court's denial of her motion to dismiss the termination petition for failure to hold the termination hearing within the time limits prescribed by MCR 3.977(F)(2). The trial court's decision on a motion to dismiss is reviewed for an abuse of discretion. *People v Stephen*, 262 Mich App 213, 218; 685 NW2d 309 (2004).

MCR 3.977(F)(2) provides:

> The hearing on a supplemental petition for termination of parental rights under this subrule shall be held within 42 days after the filing of the supplemental petition. The court may, for good cause shown, extend the period for an additional 21 days.

The termination petition in this matter was filed July 28, 2009 and authorized by the trial court October 19, 2009. The November 30, 2009 termination hearing was ultimately delayed to March 18, 2010 to allow the fathers of the two minor children to establish paternity and acquire counsel. The trial court acknowledged the termination hearing was not held within the time

prescribed by MCR 3.977(F)(2), but relied on *In re Jackson*, 199 Mich App 22, 28; 501 NW2d 182 (1993), in refusing to dismiss the petition as a remedy for violation of that court rule. In *Jackson*, this Court noted it would not impose a remedy for a violation of the court rule in effect at that time, MCR 5.974(F)(1)(b), which prescribed in language identical to the court rule at issue in this case, MCR 3.977(F)(2), that a termination hearing shall be held within 42 days after the filing of the supplemental petition. *Id.* This Court refused to impose a remedy for violation of the court rule in the *Jackson* case because the Legislature and Supreme Court had declined to provide for one, and the Court noted that the respondent had not been prejudiced by the delay of two 21-day extensions following the initial 42-day period to allow for appearance of petitioner's expert witnesses. In the present case, the trial court followed the established case law of *Jackson* in refusing to dismiss the petition as a remedy for violation of MCR 3.977(F)(2). In following case law, its decision was clearly within the range of reasonable and principled decisions, *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006), and did not constitute an abuse of discretion, *Stephen*, 262 Mich App at 218.

Respondent also argues that *In re King*, 186 Mich App 458; 465 NW2d 1 (1990), which she relied upon in the trial court as support for her motion to dismiss the termination petition due to delay in holding the hearing, was in conflict with *In re Jackson*, 199 Mich App at 22, upon which petitioner relied to oppose her motion. We conclude there is no conflict. In both *King* and *Jackson*, the respondents argued the order terminating their parental rights should be set aside for the trial court's failure to hold their termination hearings within the time prescribed by the court rule then in effect, MCR 5.974(F), which was identical to the court rule at issue in the present case, MCR 3.977(F)(2). In *King*, 186 Mich App at 460-461, the respondent averred as error the trial court's grant of two stipulated 21-day extensions beyond the initial 42-day period in which the termination hearing should be held, while in *Jackson*, 199 Mich App at 28-29, the respondent contended the trial court erred in granting two continuances beyond the initial 42-day period to allow for the presence of petitioner's witnesses. In *King*, 186 Mich App at 462, this Court found the trial court possessed the discretion to extend the time beyond the additional 21 days expressed in the court rule, that respondent had incurred no prejudice, but only a benefit from the delay, and that the delay was not error. Likewise, in *Jackson*, 199 Mich App at 28-29, this Court found the respondent experienced no prejudice from the delay in holding the termination hearing, and that failure to follow the requirements of the court rule would not lead to dismissal of a termination order. In both cases this Court found no remedy for a violation of the court rule, and we find no conflict between the decisions.

Respondent next makes a single, one sentence, vague reference to a denial of due process and equal protection. Having provided no discussion, argument, or legal authority indicating how the trial court's delay in holding the termination hearing beyond the time prescribed in MCR 3.977(F)(2) deprived her of due process or equal protection, we cannot logically guess, nor are we required to do so, the nature and basis for her arguments. By failing to brief the issues, she has abandoned them. *Nash v Salter*, 280 Mich App 104, 118; 760 NW2d 612 (2008), citing *Houghton v Keller*, 256 Mich App 336, 339-340; 662 NW2d 854 (2003).

Affirmed.

/s/ Christopher M. Murray
/s/ Joel P. Hoekstra
/s/ Deborah A. Servitto