

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 28, 2010

In the Matter of C. S. CARTER II, Minor.

No. 297764
Wayne Circuit Court
Family Division
LC No. 09-484912

Before: M. J. KELLY, P.J., and K. F. KELLY and BORRELLO, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court order terminating her parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). Because we conclude there were no errors warranting relief, we affirm. We have decided this appeal without oral argument under MCR 7.214(E).

In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K). This Court reviews for clear error both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and that termination is in the child's best interests. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with the definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in finding that the conditions of adjudication continued to exist or that respondent mother was not able to provide proper care and custody for her son. The conditions leading to adjudication were respondent mother's substance abuse, her lack of housing and income, and that respondent mother's teenaged daughter was not enrolled in school. At the time of trial, respondent mother still had not dealt with her substance abuse. She failed to complete drug screens and tested positive on numerous screens. She moved from a substance abuse treatment facility weeks after an admitted relapse, testifying that she thought she was ready to live on her own. She did not attend the substance abuse program for which she was referred after leaving the substance abuse facility. Respondent mother had a lengthy history of abusing prescription drugs, but did not understand why she could not continue to take prescription drugs during the pendency of the case. She testified that she was unable to function without Xanax. Respondent mother also did not have stable housing and employment. Although she testified that she moved in with a friend in September and split the rent, she had been unemployed and in jail during that time period and had not permitted the foster care worker to see the home. Respondent mother also had no stable period of employment. She did not attend

individual counseling after August 2009 and did not attend parenting classes at all. Respondent mother's failure to benefit from services in the previous year indicated that she would not be able to change within a reasonable time. Therefore, the trial court did not clearly err in finding that sections (c)(i) and (g) were established by clear and convincing evidence.

The trial court also did not clearly err in finding clear and convincing evidence of a reasonable likelihood that, based on respondent mother's conduct, the child would be harmed if returned to her care. The foster care worker testified that respondent mother's ten-year-old son worried about respondent mother and felt that he needed to take care of her. Respondent mother testified that she and her son had been through a lot together and that he was her best friend and her buddy. However, respondent mother continued to abuse substances, did not complete individual counseling or parenting classes, and did not have a stable home or stable employment. If returned to her, her son would again be in the position of taking care of his mother and worrying about her. Therefore, the trial court did not clearly err in finding that section (j) was established by clear and convincing evidence.

The trial court also did not clearly err in finding that termination of respondent mother's parental rights was in her son's best interests. MCL 712A.19b(5). Respondent mother's son had been placed with his grandparents a year before the termination hearing, and respondent mother made little progress on her treatment plan during that time. She failed to visit him after August 2009, even after her therapist told her that she needed to visit him so that he did not feel abandoned. The bond respondent mother had with her son was weakened by her inattention to him. As respondent mother herself testified, it would hurt her son further to be let down by her after he had already been hurt.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Kelly
/s/ Kirsten Frank Kelly
/s/ Stephen L. Borrello