

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
May 3, 2011

In the Matter of T. L. STEVERSON, Minor.

No. 300612
Oakland Circuit Court
Family Division
LC No. 2006-727635-NA

In the Matter of T. L. STEVERSON, Minor.

No. 300655
Oakland Circuit Court
Family Division
LC No. 2006-727635-NA

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

PER CURIAM.

In these consolidated appeals, respondent parents appeal as of right the order terminating their parental rights to the minor child. Respondent-father's parental rights were terminated under MCL 712A.19b(3)(b)(i), (g), (j), and (k)(iii). Respondent-mother's parental rights were terminated under MCL 712A.19b(3)(b)(ii), (g), and (j). We affirm.

To terminate parental rights, the trial court must first find that at least one of the statutory grounds set forth in MCL 712A.19b(3) was proven by clear and convincing evidence. MCL 712A.19b(3); *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory ground for termination of parental rights is established, the court must terminate if it finds that termination of parental rights is in the child's best interests. MCL 712A.19b(5). This Court reviews a trial court's finding that a ground for termination was established by clear and convincing evidence, as well as its finding of the child's best interests, for clear error. MCR 3.977(K); *In re JK*, 468 Mich at 209. 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 App at 209-210.

Here, with respect to respondent-father, we find no clear error in the trial court's finding that the record contained clear and convincing evidence of the statutory grounds for termination set forth in MCL 712A.19b(3)(b)(i), (g), (j), and (k)(iii). There was evidence that the child suffered a broken femur while in respondent-father's sole care. While respondent-father testified

that the injury was caused by the child jumping in her playpen, Dr. Bloom testified that this explanation was inconsistent with the injury. In addition to the femur injury, the child was found to have a fractured ulna and fractured ribs. Respondents had no explanation for these injuries. Furthermore, there was evidence that respondent-father continued to use marijuana and declined the services offered to him by petitioner. In respondent-father's psychological evaluation, Dr. Park concluded that respondent-father's likelihood of completing a parent-agency agreement was "minimal" on the basis of his continued drug use, his failure to complete prior parent-agency agreements, and his failure to take responsibility for his actions. Dr. Park also concluded that the child would not be safe if returned to respondent-father's care because, due to respondent-father's personality functioning, he was likely to have periods of emotional, cognitive, or behavioral dysfunction that could result in physical violence toward her. On the basis of this evidence, we find no clear error in the trial court's finding that the statutory grounds for termination set forth in MCL 712A.19b(3)(b)(i), (g), (j), and (k)(iii) were proven by clear and convincing evidence. Further, although not argued by respondent-father, the trial court's finding that termination of respondent-father's parental rights was in the best interests of the minor child was not clearly erroneous. MCL 712A.19b(5).

With regard to respondent-mother, we find no clear error in the trial court's finding that there was clear and convincing evidence of the statutory ground for termination set forth in MCL 712A.19b(3)(b)(ii). In a 2006 protective services case, there were allegations of physical abuse of respondent-mother's older three children by respondent-father. A review of the legal file of the 2006 case shows that the trial court, at the conclusion of the adjudication trial, found grounds to take jurisdiction over the children. It found that respondents provided "an unfit home environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity" Although the trial court concluded that the statutory grounds for termination had not been proven, and it subsequently terminated its jurisdiction over the three children when the children were placed in a guardianship, the 2006 case notified respondent-mother of respondent-father's abusive nature. Respondent-mother, knowing of respondent-father's abusive nature, had the opportunity to prevent the physical abuse suffered by the minor child. She failed to do so when she allowed the minor child to be left in the care of respondent-father. On the basis of this evidence, we find no clear error in the trial court's finding that the statutory ground for termination set forth in MCL 712A.19b(3)(b)(ii) was proven by clear and convincing evidence.

We also find no error in the trial court's finding that the statutory grounds for termination set forth in MCL 712A.19b(3)(g) and (j) were proven by clear and convincing evidence. There was evidence that the child suffered serious, and largely unexplained, injuries in the form of broken bones while living in respondent-mother's home. There was other evidence that respondent-mother declined the services offered to her by petitioner. In addition, Dr. Park testified that it would not be safe to return the child to respondent-mother's care because of respondent-mother's continued daily marijuana use and her failure to seek mental health treatment for depression and anxiety. Respondents remained married at the time of the dispositional hearing, and respondent-mother refused to believe that respondent-father could have caused the child's injuries. On the basis of this evidence, we find no error in the trial court's finding that the statutory grounds for termination in MCL 712A.19b(3)(g) and (j) were proven by clear and convincing evidence.

Furthermore, on the basis of the evidence noted above, we find no clear error in the trial court's finding that termination of respondent-mother's parental rights was in the child's best interests. MCL 712A.19b(5).

Affirmed.

/s/ Deborah A. Servitto

/s/ Joel P. Hoekstra

/s/ Donald S. Owens