

STATE OF MICHIGAN
COURT OF APPEALS

In re C J JOSLIN, JR, Minor.

UNPUBLISHED
November 13, 2014

No. 321444
St. Clair Circuit Court
Family Division
LC No. 13-000028-NA

Before: RIORDAN, P.J., and SAAD and TALBOT, JJ.

PER CURIAM.

L. Sharrow, the mother of the minor child, appeals as of right from the trial court’s order terminating her parental rights.¹ We affirm.

Sharrow contends that the trial court clearly erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree.

“We review for clear error a trial court’s finding of whether a statutory ground for termination has been proven by clear and convincing evidence.”² “A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court’s special opportunity to observe the witnesses.”³ The trial court must find by clear and convincing evidence that at least one statutory ground for termination has been established.⁴

The trial court did not clearly err in finding that termination was proper because “[t]he conditions that led to the adjudication continue to exist,”⁵ and Sharrow “fails to provide proper

¹ MCL 712A.19b(3)(c)(i) (conditions that led to the adjudication continue to exist), (g) (the parent fails to provide proper care or custody), and (j) (reasonable likelihood that the child will be harmed if returned to the parent’s home).

² *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013).

³ *Id.* (citation and quotation marks omitted).

⁴ *Id.*

⁵ MCL 712A.19b(3)(c)(i). Also, “182 or more days have elapsed since the issuance of an initial dispositional order,” as the initial dispositional order was entered on February 27, 2013, and the

care or custody for the child[.]”⁶ Sharrow’s substance abuse prevented her from providing proper care and custody of the child and led to the adjudication. Sharrow had received substance abuse prevention services in the form of both inpatient treatment and outpatient therapy, including services to address the impact of Sharrow’s substance abuse on parenting. Sharrow was inconsistent with and not fully engaged in the therapy, never completed a substance abuse evaluation, and did not regularly submit to drug screens. Sharrow minimized her substance abuse problem and denied that it could affect her ability to parent her child. Sharrow ultimately admitted in December 2013 that she had been using drugs and needed help to stop, but continued to deny that it affected her parenting. She entered a treatment program later that month, but left the program before completing it. She did not invest herself in treatment until the supplemental petition was filed. Considering that Sharrow made virtually no progress in overcoming her substance abuse problem after approximately a year of services, the trial court did not clearly err in finding that Sharrow’s substance abuse condition continued to exist and was not reasonably likely to be rectified, and that Sharrow failed to provide proper care or custody and was not reasonably likely to be able to provide proper care and custody, within a reasonable time given the child’s age.⁷ Although Sharrow had been attending outpatient treatment and providing clean drug screens since the supplemental petition was filed, she had done both before the supplemental petition was filed while actually still using drugs. Further, there was no evidence that Sharrow obtained and maintained a legal source of income in order to provide for the needs of herself and the child.

The trial court also did not clearly err in finding that “[t]here is a reasonable likelihood, based on the conduct or capacity of [Sharrow], that the child will be harmed if he . . . is returned to the home of [Sharrow],” based on Sharrow’s continued drug use.⁸ Karmen McMillan, a family specialist employed by Professional Counseling Center, offered testimony explaining that parenting requires supervision and that the parent be fully engaged, and that individuals under the influence of drugs and alcohol are not fully engaged. Sharrow continued to deny that her substance abuse problem affected her ability to parent. The evidence that Sharrow was unsuccessful in overcoming her substance abuse problem, and was unable to understand or accept the impact of her continued substance abuse on the safety of a child in her custody, supports the trial court’s determination that the child was reasonably likely to be harmed if returned to Sharrow’s home.

Sharrow also contends that the trial court erred in finding that termination of her parental rights was in the child’s best interests. We disagree.

Preliminarily, we note that Sharrow relies on outdated principles of law in support of her argument. The proper criteria for terminating parental rights are set forth in the current version of MCL 712A.19b(3) and (5). Whether termination is in the child’s best interests is determined

supplemental petition to terminate Sharrow’s parental rights was filed almost a year later on February 7, 2014. MCL 712A.19b(3)(c).

⁶ MCL 712A.19b(3)(g).

⁷ *In re Moss*, 301 Mich App at 80; MCL 712A.19b(3)(c)(i), (g).

⁸ MCL 712A.19b(3)(j).

by a preponderance of the evidence.⁹ We review the trial court’s decision regarding the child’s best interests for clear error.¹⁰ “In deciding whether termination is in the child’s best interests, the court may consider the child’s bond to the parent, the parent’s parenting ability, the child’s need for permanency, stability, and finality, and the advantages of a foster home over the parent’s home.”¹¹ “The trial court may also consider a parent’s history of domestic violence, the parent’s compliance with his or her case service plan, the parent’s visitation history with the child, the children’s well-being while in care, and the possibility of adoption.”¹²

The trial court found that Sharrow and her son were bonded. The trial court, however, also found that it was not in the child’s best interests to be in a home where drug use is ongoing and resulted in Sharrow being unable to care for the child. It further found that Sharrow has not demonstrated the ability to effectively address the issue. Those findings are not clearly erroneous and support the trial court’s determination that termination of Sharrow’s parental rights was in the child’s best interests.¹³

Affirmed.

/s/ Michael J. Riordan
/s/ Henry William Saad
/s/ Michael J. Talbot

⁹ *In re Moss*, 301 Mich App at 90.

¹⁰ *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014).

¹¹ *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted).

¹² *In re White*, 303 Mich App at 714.

¹³ See *id.* at 713.