

STATE OF MICHIGAN
COURT OF APPEALS

In re NAUTA/BROWN, Minors.

UNPUBLISHED
February 10, 2015

No. 322192
Kent Circuit Court
Family Division
LC Nos. 12-050419-NA;
12-050420-NA;
12-050421-NA;
12-050422-NA

Before: MURPHY, P.J., and METER and SERVITTO, JJ.

PER CURIAM.

Respondent-mother appeals as of right the May 12, 2014, order terminating her parental rights to the minor children NJN, IB, NCB, and JB under MCL 712A.19b(3)(b)(i) (child or sibling suffered abuse by parent and there is a reasonable likelihood the child will be abused in the foreseeable future), (c)(i) (conditions of adjudication continue to exist and there is no reasonable likelihood of their being rectified within a reasonable time), (g) (failure to provide proper care or custody and there is no reasonable expectation of providing proper care and custody within a reasonable time), and (j) (reasonable likelihood of harm). We affirm.

Respondent argues that the trial court erroneously found statutory grounds to terminate her parental rights. “In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). “We review the trial court’s determination for clear error.” *Id.*

We find that the trial court properly terminated respondent’s parental rights pursuant to MCL 712A.19b(3)(g), which provides that termination is proper where “[t]he parent, without regard to intent, fails to provide proper care or custody for the child[ren] 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[ren]’s age[s].”

Respondent was unable to care for the children when they were removed from her care in February 2012 because she had physically abused NJN, was using substances, and was in jail. In March 2012, respondent submitted a follicle sample that was positive for cocaine; she also tested positive for cocaine in July 2012. Respondent completed an Early Recovery Group in September 2012, but thereafter tested positive for cocaine once in October 2012 and twice in

December 2012. From April 2012 until April 2013, respondent only participated in 10 out of 24 available individual therapy sessions with Julie Kammeraad. During the time Kammeraad worked with respondent, respondent blamed others for her issues and denied continued substance use. Respondent completed a Relapse Prevention Group in April 2013. It took her almost seven months to complete the six-week program because of poor attendance. Respondent admitted at the February 20, 2014, termination hearing that she used cocaine between July 2013 and October 15, 2013. Respondent denied that she used substances after October 15, 2013, which was when she entered inpatient treatment. Respondent was discharged from inpatient treatment on December 4, 2013, for failing to be accountable for her behavior, lacking insight, and being unable to get along with others. Respondent submitted a follicle sample in November 2013, and the results supported that she consumed a life-threatening amount of cocaine in the 40 days leading up to November 1, 2013. The level of cocaine that was present in the follicle sample was consistent with chronic use. In December 2013, respondent began attending outpatient treatment, but she failed to submit to a substance screening. On January 17, 2014, respondent's saliva tested positive for cocaine, thus supporting that she had used it within 72 hours of the test. Respondent's February 2014 follicle sample supported that she had either decreased the amount of cocaine that she used or that she had abstained from cocaine use since November 1, 2013; the test further indicated that respondent had ingested cocaine and "a lot" of alcohol at some point within the six or seven months before February 3, 2014. As of February 18, 2014, respondent had missed 13 substance screenings and had tested positive for substances 18 times. Further, at the time of termination, respondent lacked housing that was appropriate for the children. *In re Williams*, 286 Mich App 253, 272-273; 779 NW2d 286 (2009).

At the beginning of the proceeding, respondent reported that she was prescribed psychotropic medication to address her depression diagnosis. However, she failed to provide documentation or execute a release so that this could be verified. Further, respondent did not test positive for psychotropic medication. Respondent was hostile and dishonest at times, and contrary to respondent's argument on appeal, she was inappropriate with NJN at times during visitations and appeared to be intoxicated during "a couple" of those visits. Further, respondent failed to address her abuse of NJN by completing domestic violence services; although respondent reported that she had completed domestic violence services in the past through Project Heal, the record supports that respondent was only provided housing assistance through that program. Respondent was referred to the Love and Logic parenting class for parenting skills, but she did not complete the class until after the termination hearings started. Respondent was unable to provide proper care and custody at the time of termination. See MCL 712A.19b(3)(g).

Further, the record does not support that respondent would have been "able to provide proper care and custody within a reasonable time considering" the children's ages. See *id.* A foster care worker testified that in order to have the children returned to her care, respondent needed to demonstrate nine months of stability and sobriety. The record does not support that respondent would be able to accomplish this given that she lacked stable housing for a majority of the proceeding, continued to use substances, lacked commitment to reunifying with the children, and was uncooperative. Further, the children were between the ages of 3 and 13 years old at the time of termination and had been in care for over two years. The trial court's finding that termination of respondent's parental rights was proper pursuant to MCL 712A.19b(3)(g) does not leave us with a definite and firm conviction that a mistake has been made. *In re HRC*,

286 Mich App 444, 459; 781 NW2d 105 (2009). Because we have concluded that at least one ground for termination existed, we need not consider the additional grounds upon which the trial court based its decision. *Id.* at 461.

Respondent next argues that the trial court clearly erred when making its best interests determination. “Once a statutory ground for termination has been proven, the trial court must find that termination is in the child[ren]’s best interests before it can terminate parental rights.” *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review a trial court’s finding that termination is in the children’s best interests for clear error. *In re HRC*, 286 Mich App at 459.

“In deciding whether termination is in the child[ren]’s best interests, the court may consider the child[ren]’s bond to the parent, the parent’s parenting ability, the child[ren]’s need for permanency, stability, and finality, and the advantages of a foster home over the parent’s home.” *In re Olive/Metts*, 297 Mich App at 41-42 (citations omitted). It is also appropriate to consider whether the children would be safe with the respondent, whether they are thriving in foster care, and whether the foster care home could provide stability and permanency. *In re VanDalen*, 293 Mich App at 141.

The record does not support that respondent’s bond with NJN was healthy or that respondent possessed appropriate parenting skills. *In re Olive/Metts*, 297 Mich App at 41-42. In May 2011, there were allegations that respondent had choked NJN, and services were provided to respondent. The children were removed from respondent’s care in February 2012 because of allegations that respondent physically abused NJN. Respondent was later convicted of fourth-degree child abuse. NJN indicated at the beginning of the proceeding that she did not want to return to respondent’s care. NJN had behavioral problems during the proceeding, and respondent was not included in NJN’s mental health services because it was believed that her hostile and negative attitude would impede NJN’s progress. NJN tried to parent the other children at times and had a peer-like relationship with respondent. Respondent sometimes engaged in inappropriate conversations with NJN during parenting times, and one of the conversations caused NJN emotional distress.

Further, before IB was removed from respondent’s care, there were allegations in May 2011 that respondent had physically abused him. Although respondent’s failure to consistently attend parenting time caused IB to become aggressive and difficult to manage, respondent “no showed” to parenting times during the proceeding. NCB was approximately 2-1/2 years old and JB was approximately 12 months old when they were removed from respondent’s care. At the time of termination, the children had been out of respondent’s care for over two years. Further, evidence supports that for much of the proceeding, respondent was satisfied with the children’s maternal grandmother caring for them in the future through a guardianship. Any bond that existed between respondent and IB, NCB, and JB was not a healthy one given respondent’s lack of commitment to caring for them.

Although respondent argues on appeal that she should have been provided additional time to provide the children with a stable home, when deciding best interests, this Court has to look at the best interests of the children, including their need for stability. *In re Trejo Minors*, 462 Mich 341, 364; 612 NW2d 407 (2000). Here, the children had been out of respondent’s care for over

two years, and they required stability and permanence. *In re Olive/Metts*, 297 Mich App at 41-42. There is no indication in the record that respondent would be able or willing to maintain stability and sobriety for an extended period of time. At the time of termination, NJN was in a foster home that was separate from the other children. She was showing involvement in school and good grades. IB, NCB, and JB were developing appropriately and appeared to be happy in their placement. Contrary to respondent's arguments on appeal, there was evidence that others could adopt all of the children if termination occurred. The trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. *In re HRC*, 286 Mich App at 459.

Affirmed.

/s/ William B. Murphy

/s/ Patrick M. Meter

/s/ Deborah A. Servitto