

STATE OF MICHIGAN
COURT OF APPEALS

In re WARRICK, Minors.

UNPUBLISHED
March 17, 2015

No. 323656
St Clair Circuit Court
Family Division
LC No. 13-000204-NA

Before: DONOFRIO, P.J., and RIORDAN and GADOLA, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court order terminating her parental rights to her two minor children, born in 2007 and 2008, under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood child will be harmed). We affirm.

I. STATUTORY GROUNDS

A. STANDARD OF REVIEW

We review under a clear error standard. *In re B & J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). “A decision is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.” *Id.* at 17-18 (quotation marks and citation omitted).

B. ANALYSIS

The trial court did not clearly err in finding sufficient evidence of at least one statutory ground for termination of respondent’s parental rights. MCL 712A.19b(3), in pertinent part, provides for termination if clear and convincing evidence exists of the following:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child 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's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Respondent's children were removed from her care because of domestic violence with respondent's boyfriend, Jason Farner, financial instability, and inadequate housing. The court ordered respondent to comply with and benefit from a case service plan that included: a psychological evaluation, individual counseling, parenting classes, domestic violence education, anger management classes, a substance abuse assessment, and random drug screens. Respondent was ordered to obtain and maintain suitable housing and a legal income source for at least three consecutive months.

Respondent failed to comply with and benefit from her case treatment plan. Although respondent initially engaged in services and made progress in the first three months, she regressed. She then disengaged from services. She ignored the caseworker's suggestions and court orders as she saw fit. Perhaps her most egregious violation was that she continued her relationship with Farner, despite a no-contact order. Although she was educated on the adverse effects of domestic violence on young children, she continued her relationship with Farner. According to the foster-care worker, one of the minors told respondent that Farner had choked him, but respondent chose to believe that he was lying about the choking.

At the time of the termination hearing, respondent claimed that she was no longer in a relationship with Farner. Yet, as the trial court astutely reasoned, this was the case merely because Farner had moved out of the state at the time of the hearing. Respondent also displayed no insight into the role she played in her children being placed in foster care. Instead, she blamed caseworkers and her alleged seizure disorder. Despite numerous services, including two referrals for individual counseling and other domestic violence services, respondent believed that Farner was not at fault, and placed the blame on Farner's father. She came to this conclusion despite the fact that she was hospitalized after Farner assaulted her, and he went to jail. Moreover, the foster-care worker testified that even if respondent was no longer with Farner, the children were at risk because respondent was prone to violent domestic relationships. See *In re Plump*, 294 Mich App 270, 273; 817 NW2d 119 (2011) (while "it would be impermissible for a parent's parental rights to be terminated solely because he or she was a victim of domestic violence . . . this termination was properly based on the fact that respondent's own behaviors were directly harming the children or exposing them to harm.").

Respondent also missed at least half of her supervised parenting sessions. She continually provided caseworkers with an arsenal of excuses, such as her seizure disorder, her

failure to obtain transportation, and other illnesses. However, respondent refused offers for bus passes because she was unwilling to get up early to go to the bus stop. Her failure to comply with the case service plan is evidence that returning the child to her would cause a substantial risk of harm to the child's life, physical health, or mental well-being. MCL 712A.19a(5).

Further, respondent was diagnosed with intermittent explosive disorder, alcohol dependence, and cannabis dependence. Respondent was dishonest and evasive with her therapist. She continually blamed her failure to comply with the case service plan on her alleged medical condition. Significantly, respondent did not provide the caseworkers with documentation to substantiate her claim of a debilitating medical condition.¹ Respondent also tested positive for THC three times in April 2014, and refused to provide other random drug screens. She adamantly refused to address her substance abuse issue, claiming that using marijuana was not a "big deal."

Respondent had made three applications for social security disability benefits. She was denied twice and was awaiting a decision on her third application. She adamantly refused to obtain a source of income, even after the two denials of benefits. Throughout the case, respondent did not have adequate housing² or a legal source income, which cast serious doubt on her ability to provide the children with a safe and stable environment on a long-term basis.

Respondent claims that she had made progress and simply needed more time to achieve the goals of reunification. However, given her dismal progress thus far, there is no basis to conclude that additional time would result in a different outcome. Respondent placed her children in harm's way when exposing them to domestic violence, by flagrantly disobeying the court's no-contact order, and by maintaining her relationship with Farnier. She also repeatedly failed to attend visitation, and she failed to achieve stable income or housing. We find no error in the trial court's findings pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).

II. BEST INTERESTS

A. STANDARD OF REVIEW

Respondent also challenges the trial court's best-interest analysis. We review for clear error a trial court's decision regarding a child's best interests. *In re Rood*, 483 Mich 73, 90; 763 NW2d 587 (2009). "A finding is clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *Id.* (quotation marks, citations, and brackets omitted).

B. ANALYSIS

¹ Respondent provided the caseworker with documentation for a couple of hospitalizations, but apparently with no substantiation of her actual condition.

² Respondent's housing at the time of the termination hearing was unsuitable because she was living with her mother, with whom she had a volatile relationship

The trial court did not clearly err in finding that termination was in the children's best interests. In determining the best interests of a child, the trial court may consider the child's bond to the parent, the parent's parenting ability, the advantages of a foster home over the parent's home, and the child's need for permanency, stability, and finality. *In re Olive/Metts*, 297 Mich App 35, 41-42; 832 NW2d 144 (2012). "[O]nce a statutory ground is established, a parent's interest in the care and custody of his or her child yields to the state's interest in the protection of the child." *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009).

Respondent vacillated between engaging in services and voluntarily relinquishing her parental rights, as she preferred to be with Farner. She continually ignored the trial court's order to have no contact with him. The trial court reasonably concluded that respondent would stay with Farner if given the opportunity. The caseworker also found that respondent was particularly vulnerable to relationships with abusive men. There was ample evidence that respondent was unwilling to prioritize her children's needs.

Respondent also missed numerous opportunities to visit her children, claiming that it was because of seizures and transportation issues. Yet, respondent testified that she only had four seizures after January 2014. The trial court properly concluded that respondent's placement of blame on her alleged seizures was an attempt to justify her utter failure to comply with her case service plan. Respondent did not accept responsibility for the children being in foster care. She lacked insight and sound parental judgment. She also blamed the caseworker, transportation, and a lack of services rather than acknowledging that her poor choices profoundly impacted her children negatively.

We find no clear error in the trial court's conclusion that termination was in the children's best interests.

III. CONCLUSION

The trial court properly terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We also find no error in the trial court's best-interest determination. We affirm.

/s/ Pat M. Donofrio
/s/ Michael J. Riordan
/s/ Michael F. Gadola