STATE OF MICHIGAN

COURT OF APPEALS

In re K. SHAW, Minor.

UNPUBLISHED
March 19, 2015

No. 323753; 323754
Berrien Circuit Court
Family Division
LC No. 2013-000105-NA

Before: GLEICHER, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

In these consolidated appeals, respondents V. Shaw ("respondent-mother") and A. Beshires ("respondent-father") appeal as of right from the trial court's order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (j). We affirm.

In docket number 323753, respondent-mother argues that the trial court clearly erred in finding that sufficient evidence existed for the court to exercise jurisdiction over the minor child pursuant to MCL 712A.2. "Ordinarily, an adjudication cannot be collaterally attacked following an order terminating parental rights." *In re SLH*, 277 Mich App 662, 668; 747 NW2d 547 (2008); see also *In re Gazella*, 264 Mich App 668, 679–680; 692 NW2d 708 (2005). More specifically, a respondent may not challenge the court's exercise of jurisdiction when termination follows the filing of a supplemental petition for termination after the issuance of the initial dispositional order. *In re SLH*, 277 Mich App at 668.[1] After an October 23, 2013 hearing, the court took jurisdiction over respondent-mother and entered an order of disposition. On May 25, 2014, petitioner filed a supplemental petition for termination of parental rights, and respondent-mother's parental rights were terminated after a hearing. Because respondent-mother's parental rights were terminated after the filing of a supplemental petition and respondent-mother appeals the termination order rather than the initial dispositional order, respondent-mother's argument is an impermissible collateral attack on the trial court's exercise of jurisdiction, and we need not consider the merits of respondent-mother's argument. See *id*. However, we note that we reviewed respondent-mother's assertions and hold that they lacked merit.

[1] We note that, "[i]f termination occurs at the initial disposition as a result of a request for termination contained in the original, or amended, petition for jurisdiction, then an attack on the adjudication is direct and not collateral, as long as the appeal is from an initial order of disposition[.]" *In re SLH*, 277 Mich App at 668.

In docket number 323754, respondent-father argues that the trial court clearly erred in finding that a statutory ground for termination was proven by clear and convincing evidence. We disagree. "To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). "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." *Id*.; see also MCR 3.977(K). "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." *In re Laster*, 303 Mich App 485, 491; 845 NW2d 540 (2013) (citation omitted).

The trial court found that the following provisions of MCL 712A.19b(3) were established by clear and convincing evidence:

> (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.

"[O]nly one statutory ground for termination must be established for each parent[.]" *In re Laster*, 303 Mich App at 495. When one ground for termination is established by clear and convincing evidence, this Court need not address the other grounds for termination. *In re Utrera*, 281 Mich App 1, 24; 761 NW2d 253 (2008). Because only one statutory ground for termination need be established, and based on respondent-father's cursory argument regarding MCL 712A.19b(3)(j), we focus our analysis on MCL 712A.19b(3)(c)(*i*) and (g).

There was clear and convincing evidence justifying termination pursuant to MCL 712A.19b(3)(c)(*i*) and (g). Respondent-father asserts that the trial court disregarded his progress, especially in regard to parenting time. However, most of respondent-father's arguments are supported by evidence from the first review hearing, before he stopped participating for three months. At the first review hearing, the court acknowledged that respondent-father had made

significant progress. However, respondent-father then stopped participating in services, and voluntarily stopped attending parenting time with the minor child. While respondent-father began to participate again after the three months, he still only attended 43 out of 102 total scheduled visitation sessions. Respondent-father attempts to ignore the three-month period where he not only stopped making progress, but regressed. This is especially concerning, given the fact that the minor child was less than two years old, and, as parenting coach Amy Cooper testified, that time in a child's development is crucial. As the trial court noted, while respondent-father had arguably progressed, he was no closer to reunification that he had been at the time of adjudication, when he was also participating in services.

Moreover, there was testimony that respondent-father had cognitive issues which would prevent him from being an independent parent. Because of his cognitive issues, respondent-father was assigned a parenting coach, Cooper, and while he participated and took suggestions, both caseworker Caitlyn Harrington and Cooper expressed that they did not feel respondent-father would be able to parent individually. Harrington, particularly, mentioned that respondent-father lacked safety awareness for the minor child. Cooper testified that she did not think that respondent-father could independently promote age-appropriate activities with the minor child to help the child develop. In addition, both Cooper and Harrington testified that respondent-father refused to acknowledge that his past may affect his raising the minor child and his failure to deal with the issues that brought the minor child into care. Cooper attempted to complete an adult attachment interview with respondent-father, but he was defensive and guarded, so the assessment could not be completed. This testimony was consistent with the trial court's finding that respondent-father lacked emotional and psychological stability. Further, while respondent-father was loving and affectionate toward the minor child, neither Cooper or Harrington felt respondent-father had a close bond with the minor child. Respondent-father also consistently resided in unstable and inappropriate housing, and had no plans to change his housing situation. Based on the testimony, the conditions that led to adjudication continued to exist and respondent-father failed to provide proper care and custody for the minor child. See MCL 712A.19b(3)(c)(*i*), (g). Further, the evidence presented showed that the conditions would not be rectified within a reasonable time considering the child's age, and that respondent-father could not provide proper care and custody within a reasonable time. See MCL 712A.19b(3)(c)(*i*), (g). Thus, the trial court did not clearly err in finding that a statutory ground for termination was established.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood