

STATE OF MICHIGAN
COURT OF APPEALS

In re A. BROWN, Minor.

UNPUBLISHED
November 17, 2015

No. 326331
Muskegon Circuit Court
Family Division
LC No. 13-042991-NA

Before: STEPHENS, P.J., and CAVANAGH and MURRAY, JJ.

PER CURIAM.

Respondent-mother appeals as of right the February 18, 2015 order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) (failure to provide proper care and custody). We affirm.

I. BACKGROUND

The minor child was removed from mother’s custody because of mother’s homelessness, drug use, and chronic unemployment. The trial court ultimately terminated her parental rights under MCL 712A.19b(3)(g) and found that such termination was in the child’s best interests.

II. TERMINATION OF PARENTAL RIGHTS

A. STATUTORY GROUND FOR TERMINATION

“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). Termination of parental rights is proper under MCL 712A.19b(3)(g) where “[t]he 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.” With regard to MCL 712A.19b(3)(g), the trial court found that mother was homeless, she could not provide the minor child with stable housing, and that mother had not progressed at all during the proceedings.

We find no clear error in the trial court's findings. A parent's failure to obtain and maintain suitable housing can be grounds for termination under MCL 712A.19b(3)(g). *In re Trejo*, 462 Mich 341, 362-363; 612 NW2d 407 (2000); *In re Laster*, 303 Mich App 485, 493-494; 845 NW2d 540 (2013). The Department of Health and Human Services (DHHS)¹ reported throughout the proceedings that mother had no residence and slept on couches at random houses. Mother told the DHHS that her residence was not the DHHS's business. Mother was evicted from her mother's house and her sister's house for combative and destructive behavior. Mother was accepted as a resident in a group home that would provide her temporary housing and rent, but within weeks she was evicted from that home because she assaulted another resident. Thus, mother failed to avail herself of resources from which she could obtain housing assistance and failed to provide the court with evidence that she had resources for housing on her own or was likely to obtain those resources in the near term. Therefore, we conclude that the trial court did not clearly err in finding that mother failed to provide the minor child suitable housing and would not be able to do so within a reasonable time. *In re VanDalen*, 293 Mich App at 139; *In re Trejo*, 462 Mich at 362-363; *In re Laster*, 303 Mich App at 493-494.

In addition, the trial court's termination under MCL 712A.19b(3)(g) is supported by mother's failure to protect the minor child from a risk of harm because of her continued relationships with men who posed a risk to the child. *In re White*, 303 Mich App 701, 712-713; 846 NW2d 61 (2014). Mother continued her relationship with an abuser during the pendency of this case and made false statements about that relationship to DHHS. In sum, the trial court did not clearly err in terminating mother's rights under MCL 712A.19b(3)(g). *In re VanDalen*, 293 Mich App at 139.

B. BEST INTERESTS

The trial court also did not err when it found that termination was in the minor's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012) (citations omitted). When considering best interests, the focus is on the child rather than the parent. *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013). The trial court should consider all available evidence to determine the child's best interests, *In re Trejo*, 462 Mich at 356, and may consider such factors as "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," *In re Olive/Metts*, 297 Mich App at 41-42 (internal citations omitted). Other factors that the trial court can consider include how long the child lived in foster care or with relatives, the likelihood that "the child could be returned to [the] parent's home within the foreseeable future, if at all[.]" and compliance with the case service plan. *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012).

¹ The Department of Human Services initiated this case, but it has since been merged into the newly created Department of Health and Human Services (DHHS). We therefore refer to the newly formed Department in this opinion.

The trial court found that termination was in the child's best interest because there was no relative available with whom to place the child and the child did not have a strong bond with mother. The trial court further found that it was advantageous for the child to live with his foster parents rather than with mother because mother had no home and the child received love, affection, and permanency in the foster home. Evidence amply supports these findings. Mother severed ties with most of her family and the DHHS's efforts to find a relative to care for the minor child were fruitless. Mother's visits with the child went poorly. She continuously used her cellular telephone during visits and failed to properly interact with the child. She missed many visits and was late to others. In contrast, the minor child had a strong bond with his foster parents, they provided a suitable home for him, and they wanted to adopt him. And, considering mother's chronic homelessness, unemployment, and failure to benefit from services, it was unlikely that the child "could be returned to [mother's] home within the foreseeable future, if at all." *In re Frey*, 297 Mich App at 248-249. Therefore, the trial court did not clearly err in finding that termination was in the child's best interests. *In re Moss*, 301 Mich App at 80; *In re Olive/Metts*, 297 Mich App at 41-42.

Affirmed.

/s/ Cynthia Diane Stephens
/s/ Mark J. Cavanagh
/s/ Christopher M. Murray