

STATE OF MICHIGAN
COURT OF APPEALS

In re PRICE, Minors.

UNPUBLISHED
November 10, 2015

No. 326997
Macomb Circuit Court
Family Division
LC Nos. 2013-000413-NA,
2013-000414-NA

In re PRICE, Minors.

No. 327001
Macomb Circuit Court
Family Division
LC Nos. 2013-000413-NA,
2013-000414-NA

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

PER CURIAM.

In these consolidated appeals, respondents appeal as of right an order terminating their parental rights to their minor twin sons. In Docket No. 326997, respondent-father appeals the termination of his parental rights under MCL 712A.19b(3)(g) and (j). In Docket No. 327001, respondent-mother appeals the termination of her parental rights under MCL 712A.19b(3)(c)(i), (g), (j), and (l). We affirm.

I. STANDARD OF REVIEW

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). “If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child’s best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.” MCL 712A.19b(5). We review the trial court’s decision for clear error. MCR 3.977(K). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

II. RESPONDENT-FATHER

The trial court did not clearly err by finding that the statutory grounds for termination of respondent-father's parental rights were established by clear and convincing evidence and that termination of his parental rights was in the children's best interests.

Respondent-father was unable to provide proper care of his children and they would likely be harmed if returned to his care. Contrary to respondent-father's claim on appeal, he was not sufficiently compliant with his treatment plan. Respondent-father has a lengthy history of substance abuse, unstable housing, and health concerns. The record shows that he was diabetic and did not take proper care of his health. This left him vulnerable to diabetic coma and frequent bouts of irritability that impacted his parenting ability. He was inattentive to the children's health as well. The children suffered severe tooth decay and dental neglect. Both of the children needed major dental work because respondents failed to facilitate good dental hygiene, proper nutrition, and removal of their sippy cups.

Although respondent-father was trained and employed as a tattoo artist, he went from job to job across the country and state and never demonstrated an ability to maintain stable housing or employment. Respondent-father lived in nine different places while the children were in foster care. Although he obtained housing with respondent-mother and had a lease, at the termination hearing they had not paid any rent for this housing. Respondent-father's failure to pay rent may have been due to the fact that, by the final hearing, he was without a job. There was no evidence he could financially support himself or the children. Moreover, respondent-father's financial issues and instability were longstanding. Respondent-father has three adult children for whom he did not provide care and was even incarcerated at one point for failure to pay child support for one of them.

In addition to being transient and unstable, respondent-father demonstrated a lack of commitment to the children by refusing to participate in services. Respondent-father's therapist offered to include anger management in individual counseling sessions but he stopped attending both individual counseling and group counseling. Respondent-father's therapist gave him a poor prognosis because respondent-father did not believe therapy would help him. Respondent-father was kicked out of parenting classes for being disruptive and never completed a full session of parenting classes. He was dismissed from domestic violence counseling after being argumentative with the therapist. Respondents' violent relationship would have put their children at risk of harm.

Respondent-father's substance use and criminal history would also have put the children at risk of harm. He never participated in drug treatment, did not consistently submit drug screens, and the screens he submitted were often diluted. Respondent-father tested positive for marijuana one month before the final termination hearing. Additionally, respondent-father had a lengthy criminal history. He was convicted of driving while intoxicated, possession of marijuana, and failure to pay child support. He also had multiple convictions for driving on a suspended license.

Respondent-father argues that the court attributed the children's issues to their dental hygiene and did not make clear, distinct findings as to the cause of their dental issues. This

argument is unsupported by the record. The court identified the children's special needs in its findings and noted that respondent-father told his therapist that therapy was a waste of time because he had no intention of changing anything. The court went through the record and made specific statutory findings under MCL 712A.19b(3)(g) and (j). It is clear from the record evidence that, given respondent-father's untreated anger issues, refusal to participate in therapy, continuing substance abuse, inability to maintain stable income and housing, and criminal issues, he would not be able to provide proper care of the children within a reasonable time and they would be at risk of harm in his care. Thus, termination of respondent-father's parental rights was proper under MCL 712A.19b(3)(g) and (j).

Termination of his parental rights was also in the children'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), citing MCL 712A.19b(5) and MCR 3.977(E)(4). "[W]hether termination of parental rights is in the best interests of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). This Court reviews a trial court's finding that termination is in the child's best interests for clear error. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

As the trial court properly found, termination of respondent-father's parental rights was in the children's best interests. Respondent-father argues that the trial court's findings with regard to the children's best interests were insufficient. This claim is unpersuasive. The trial court made written and oral findings indicating that it was in the best interests of the children to terminate respondent-father's parental rights. Moreover, the trial court is not required to make any specific best-interest findings. *In re Gazella*, 264 Mich App 668, 677-678; 692 NW2d 708 (2005). Regardless, the court's record makes it clear that termination of respondent-father's parental rights was in the children's best interests.

Both children have special needs. They were diagnosed with intermittent explosive disorder and a mood disorder. One was also diagnosed with ADHD. The children need speech therapy, special education, socialization, and behavior training. Their evaluating psychologist noted that, because of their mood disorders and risk of non-verbal learning disturbances, these boys needed consistent caregivers and a stable, coherent environment. Respondent-father lacked understanding on how to manage the children on a developmental and intellectual level. He failed to attend parenting classes and therapy to improve his ability to care for the children. Moreover, because of respondent-father's drug use, inability to maintain housing, and anger issues, he cannot offer the children the stable environment and attentive caregiving that they need.

Respondent-father argues that no findings were made about whether destruction of the children's bond with him was in their best interests. This argument is without merit. Any bond these children may have shared with respondent-father was not more important than their safety, health, and emotional well-being, which respondent-father could not provide for. Thus, the trial court did not clearly err in concluding that termination of respondent-father's parental rights was in the children's best interests.

III. RESPONDENT-MOTHER

The trial court did not clearly err by finding that MCL 712A.19b(3)(c)(i), (g), and (j) were established by clear and convincing evidence with regard to respondent-mother and supported termination of her parental rights to the children or in finding that termination of her parental rights was in the children's best interests.

The trial court properly terminated respondent-mother's parental rights under MCL 712A.19b(3)(c)(i) because the conditions that led to the adjudication continued to exist. At the time of adjudication respondent-mother had a history with Children's Protective Services (CPS). Two of her older children were removed from her care in 2006, and she released parental rights in 2007 because she could not care for them. Respondent-mother also has a long history of substance abuse that included prescription medication addiction and marijuana use. She has a history of homelessness and the homes where she has lived were typically in deplorable condition. Respondent-mother engaged in violent relationships and was involved with men who had criminal and CPS records. At the time of the adjudication, both of the children's teeth were extensively decayed and had been subjected to dental neglect.

By the time of the termination hearing, respondent-mother admitted using marijuana and did not regularly submit drug screens. She never demonstrated the ability to maintain stable housing and had not paid any rent on the house she was living in. Respondent-mother continued to be involved in a relationship with respondent-father and claimed she lied about violence between them even though she moved into a domestic violence shelter in September 2013. Because she had not addressed the issues that brought the children into protective care, termination of her parental rights was proper under MCL 712A.19b(3)(c)(i).

Because we find that the trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(c)(i), we need not address the additional grounds. See *In re HRC*, 286 Mich App at 461. In any case, termination of respondent-mother's parental rights was also proper under MCL 712A.19b(3)(g) because she was unable to provide proper care and custody of the children. Respondent-mother's CPS history dated back to 2006 when two older children were removed from her care. In 2007, after the accidental death of a third child from suffocation while co-sleeping with the child's father and respondent-mother's failure to comply with a treatment plan to address substance abuse, environmental neglect, and her mental health issues, respondent-mother released parental rights to those children. Respondent-mother never addressed her substance abuse after the removal of the twins when given another chance in 2013. She admitted using marijuana, failed to regularly submit drug screens because she knew they would be positive, and even purchased crack cocaine for a friend in April 2014. Moreover, respondent-mother never completed parenting classes and lacked parenting skills. The children acted out with her and often needed to be removed at visits. Respondent-mother lived in at least nine different residences throughout the time the twins were in foster care. Although respondent-mother argues that she had a place to live and a signed lease for the residence, she did not obtain this housing until January 2015, and had not paid any rent on it as of the final hearing in March 2015.

Additionally, the children came into protective care with extensive tooth decay. Respondent-mother minimizes the dental neglect the children experienced when she argues in

her brief on appeal that she sought dental treatment for them but the children were removed before their appointment with the oral surgeon was scheduled. The record shows that the children did not maintain proper dental hygiene and had poor diet and sippy cup habits, and respondents did not seek appropriate dental care for the children. Respondent-mother's mental health issues also interfered with her ability to provide proper care. She did not consistently attend therapy and overdosed on Xanax due to anxiety concerns. Her consistent failure to comply with her treatment plan was evidence of her failure to provide proper care and custody. See *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Considering respondent-mother's CPS history, continuing substance use, lack of parenting skills, housing instability, mental health issues, and the dental neglect, it is clear that respondent-mother had failed to provide proper care of the children and would not be able to do so within a reasonable time; thus, termination of her parental rights was proper under MCL 712A.19b(3)(g).

Termination of respondent-mother's parental rights was also proper under MCL 712A.19b(3)(j) because the children would be at risk of harm in her care. Throughout the case respondent-mother was involved with men having CPS and criminal records who posed a risk of harm to her and her children. Although she later denied domestic violence between her and respondent-father, she sought refuge from him at a shelter in September 2013. And in February 2014, her boyfriend assaulted her. Likewise, her unaddressed marijuana and prescription medication abuse would have interfered with her ability to properly supervise and care for the children. Thus, termination of parental rights was also proper under MCL 712A.19b(3)(j).

We agree, however, that termination of respondent-mother's parental rights was improper under MCL 712A.19b(3)(l) because she voluntarily released her parental rights to two older children. However, because other statutory grounds for termination of respondent-mother's parental rights were established, the trial court's error in also relying on MCL 712A.19b(3)(l) was harmless. See *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

And the trial court did not clearly err in finding that termination of respondent-mother's parental rights was in the children's best interests. See MCL 712A.19b(5); MCR 3.977(K); *In re Olive/Metts*, 297 Mich App at 40. Respondent-mother's claim that the trial court failed to make best-interest findings is unpersuasive. The trial court was not required to make any specific best-interest findings. *Gazella*, 264 Mich App at 677-678. Regardless, the trial court made written and oral findings indicating that it was in the best interests of the children to terminate respondent-mother's parental rights.

As already discussed, these children have special needs. They require a stable, coherent environment, and consistent caregivers. Contrary to respondent-mother's claim on appeal, there was no bond observed between her and the children. Moreover, her interactions with them disrupted their ability to self-regulate and contributed to encopresis. It was in the children's best interests to be cared for by individuals who can meet their special needs, support them, and help them overcome their challenges. The evidence clearly shows that respondent-mother cannot

provide a nurturing, stable, substance free home for the children. Thus, the trial court did not clearly err in concluding that termination of her parental rights was in their best interests.

Affirmed.

/s/ Cynthia Diane Stephens

/s/ Mark J. Cavanagh

/s/ Christopher M. Murray