

STATE OF MICHIGAN
COURT OF APPEALS

In re BIRD, Minors.

UNPUBLISHED
December 15, 2015

No. 327972
Calhoun Circuit Court
Family Division
LC No. 2014-001563-NA

Before: SHAPIRO, P.J., and O'CONNELL and WILDER, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii) (parent failed to prevent sexual abuse), (c)(i) (conditions that led to the adjudication continue to exist), and (j) (children will be harmed if returned to parent). We affirm.

Respondent argues that the trial court erred in terminating her parental rights.¹ To terminate parental rights, a trial court must find by clear and convincing evidence that a ground for termination under MCL 712A.19b has been established. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Here, the trial court found termination of respondent's parental rights was proper under MCL 712A.19b(3)(b)(ii), (c)(i), and (j), which provide that termination is proper if petitioner establishes one of the following by clear and convincing evidence:

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

* * *

(ii) The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a

¹ A trial court's factual findings in terminating parental rights, including a finding that a ground for termination has been established and that termination is in a child's best interests, are reviewed for clear error. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

* * *

(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.

* * *

(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 testimony shows that her husband, father, and one of her former sexual partners sexually abused her oldest daughter while she was in respondent's care. Respondent failed to report her father's and husband's abuse. She claimed that by the time she learned of it, the authorities had already been notified. However, she also testified that after she became aware that her husband and father had abused her daughter, she left her former sexual partner in a room alone with her daughter and her daughter was abused by him. Respondent testified that she learned of the abuse the next morning. However, she did not report the incident until after Child Protective Services (CPS) became involved. Moreover, even then, respondent declined to press charges against her former sexual partner.

Randall Haugen, the psychologist that performed respondent's psychological evaluation and psychological review, testified that the minor children would be at risk of harm if they were returned to respondent's care unless she successfully completed sexual abuse counseling to help her understand the full effects of sexual abuse, sex offender dynamics, and sex offender recidivism. Further, Ruth Vanderpool-Combs, respondent's sexual abuse counselor, testified that respondent did not sufficiently benefit from her sexual abuse counseling. A parent's mere participation in and benefit from services is insufficient; instead, a parent must demonstrate sufficient compliance with and benefit from services to address the problem targeted by those services. *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012).

On appeal, respondent argues that the trial court overemphasized the significance of a letter respondent sent to her husband in an attempt to achieve closure regarding their relationship. We disagree. Rather than providing closure, respondent's letter actually demonstrated that she continued to struggle with ending her relationship with him. Haugen and Vanderpool-Combs relied upon respondent's struggle with ending her relationship with her husband when they formed their opinions that placing the minor children with respondent would be dangerous for the children. The trial court was allowed to consider all of the evidence properly before it, and did not err in relying on respondent's letter and testimony regarding the

significance of that letter. Accordingly, in light of the testimony that respondent failed to sufficiently benefit from sexual abuse counseling, respondent's history was evidence that the minor children would be in danger of sexual abuse in the future if they were in respondent's care. See *In re Archer*, 277 Mich App 71, 75-76; 744 NW2d 1 (2007). Thus, the trial court did not clearly err in finding a statutory ground for termination under MCL 712A.19b(3)(j). See *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Because only one statutory ground for termination must be established, *id.* at 360, and because we affirm termination under (j), we need not address whether termination was proper under MCL 712A.19b(3)(b)(ii) and (c)(i).

Respondent also argues that the trial court erred by finding that termination of her parental rights was in her children's best interests. We disagree. Termination of a respondent's parental rights is required once the court finds by clear and convincing evidence that there is a statutory ground for termination and finds by a preponderance of the evidence that termination of the respondent's parental rights is in the children's best interests. MCL 712A.19b(5); *In re Moss Minors*, 301 Mich App 76, 90; 836 NW2d 182 (2013). Here, the trial court found by a preponderance of the evidence that it was in the minor children's best interests to terminate respondent's parental rights because the minor children needed the permanency and stability that adoption could provide them. This finding was supported by the record, and the trial court properly considered the children's need for stability and permanency. *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). We find no clear error in the court's finding. See *Trejo Minors*, 462 Mich at 356-357.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Peter D. O'Connell
/s/ Kurtis T. Wilder