STATE OF MICHIGAN

COURT OF APPEALS

In re C R MURAN-JONES, Minor.

UNPUBLISHED
January 21, 2016

No. 327852
Oakland Circuit Court
Family Division
LC No. 2014-825603-NA

Before: RIORDAN, P.J., and JANSEN and FORT HOOD, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(e) and (f). We affirm.

Respondent is the father of a minor child born in January 2009. After she was born the child began residing with her mother in her maternal grandmother's house. Full guardianship was granted to the child's grandmother on June 4, 2009. In November 2014, the child's guardian filed a petition seeking to terminate respondent's parental rights. At the conclusion of the termination hearing, the trial court terminated respondent's parental rights to the minor child.

Respondent first argues that petitioner failed to establish by clear and convincing evidence statutory grounds for termination. "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.*; *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004).

The trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(e) and (f), which provide:

> (e) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(f) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and both of the following have occurred:

(*i*) The parent, having the ability to support or assist in supporting the minor, has failed or neglected, without good cause, to provide regular and substantial support for the minor for a period of 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the petition.

(*ii*) The parent, having the ability to visit, contact, or communicate with the minor, has regularly and substantially failed or neglected, without good cause, to do so for a period of 2 years or more before the filing of the petition.

The trial court did not clearly err in terminating respondent's parental rights pursuant to MCL 712A.19b(3)(e). Respondent was given two court-structured plans. These plans required respondent to obtain a residence and employment; pay child support; participate in parenting classes, domestic violence classes, and anger management; and complete the terms of probation. Although respondent was sporadically employed during the times he was not incarcerated, he did not fully comply with any of the terms of his court-structured plans. There was no evidence that he had independent housing, and he claimed that evidence of his participation in therapeutic classes was lost in the trunk of the child's mother's car. Respondent was in arrears on child support and continued to pick up new criminal charges, which violated the terms of his probation. There was no evidence that respondent was involved in the child's life or even inquired about her well-being. Respondent's lack of efforts disrupted the parent-child relationship. Thus, termination of parental rights was proper pursuant to MCL 712A.19b(3)(e).

Termination of respondent's parental right was also proper pursuant to MCL 712A.19b(3)(f). Respondent failed to substantially comply with a support order for a period of two years or more before the filing of the petition. In this case the termination petition was filed in September 2014. Respondent's child support order was suspended twice during the pendency of the guardianship because he was incarcerated. Respondent owed more than $12,000 in child support and only paid $1,390 in the last three years through wage garnishment. Respondent made minimal efforts to financially contribute to the child's care. Furthermore, respondent failed to regularly visit, contact, or communicate with the minor child for a period of two years before the filing of the petition. Respondent last saw the child in July 2011. He never called to talk to her and the only thing he ever sent her was a Christmas card in December 2014 after the petition was filed. Respondent claimed that he stopped by the house where the child lived and that no one answered the door, but there was no evidence of his visits because he did not leave a note. When respondent's visitation was suspended by the court, he never requested that it be reinstated. Respondent claimed he filed a motion for parenting time in April 2014 but mistakenly filed it with the Friend of the Court, rather than in the probate court, so the motion was never heard. Respondent testified that he waited to file a motion for parenting time because he had been in jail for a year and did not feel responsible. He admitted that he did not make any attempts to contact the child from August 2012 until February 2013 because he was running from law enforcement. Accordingly, termination was proper pursuant to MCL 712A.19b(3)(f).

Respondent next argues that the trial court erred in terminating his parental rights because his due process right to notice was violated in the underlying guardianship proceeding. Whether a respondent has been deprived of his right to due process is a constitutional issue that this Court reviews de novo. *In re Rood*, 483 Mich 73, 91; 763 NW2d 587 (2009). "Due process in civil cases generally requires notice of the nature of the proceedings, an opportunity to be heard in a meaningful time and manner, and an impartial decision maker." *In re Juvenile Commitment Costs*, 240 Mich App 420, 440; 613 NW2d 348 (2000). In addition, a respondent in a child protective proceeding has a statutory right to notice. *In re AMB*, 248 Mich App 144, 173; 640 NW2d 262 (2001).

Petitioner initiated guardianship proceedings over the minor child in 2009, and the guardianship was granted in June 2009. Respondent was incarcerated at that time. During the termination proceedings, respondent claimed that he did not learn about the guardianship until August 2009, two days after his release from jail. Respondent's claim is unsupported by the record. While this Court has limited information concerning the guardianship proceedings in the probate court, petitioner provided a June 4, 2009 probate court order that indicates notice was given or waived by all interested parties. Moreover, if respondent had a complaint concerning the guardianship, he should have long ago filed a petition in the probate court instead of raising his claims only when attempting to prevent the termination of his parental rights. It is a well-established legal principle that a party must raise objections at a time when the trial court has an opportunity to correct the error. See *People v Grant*, 445 Mich 535, 551; 520 NW2d 123 (1994). Indeed, it appears that respondent participated in at least some of the probate proceedings, and could have raised concerns with notice during those proceedings. Additionally, the clear wording of MCL 712A.19b(3)(f) only requires that the child has a guardian under the Estates and Protected Individuals Code, MCL 700.1101, *et seq*. There is no requirement that the court evaluate the circumstances surrounding the placement of a child with a guardian. Accordingly, there was no error in this case. We similarly reject respondent's claim that petitioner "failed to follow up and make direct contact with the father." Respondent offers no legal support to prove that petitioner had any such obligation.

Respondent next argues that termination of his parental rights was not in the minor child'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). "[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 at 90. 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).

After the hearing on the statutory grounds for termination, respondent agreed to waive the best interests hearing. "[E]ven where no best interest evidence is offered after a ground for termination has been established," MCL 712A.19b(5) "permits the court to find from evidence on the whole record that termination is clearly not in a child's best interests." *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). In waiving the hearing, respondent agreed, under oath, that termination was in the child's best interests. It is well established that a waiver extinguishes any error. *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000). The trial court thereafter found that termination was in the child's best interests. The trial court was only

required to make brief, definite, and pertinent findings and conclusions on contested matters. MCR 3.977(I)(1). Accordingly, we conclude that no error occurred, as respondent did not dispute whether termination was in the best interests of the child.

Further, there was substantial record evidence to support the trial court's finding that termination was in the best interests of the child. "In deciding whether termination is in the child's best interests, the court may consider 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). Here, the evidence showed that respondent had not seen the child for several years and had no established bond with the child. The child, aged six, had lived with her guardian for her entire life, and was doing very well. Respondent had never demonstrated a desire or ability to parent the child, and could not show that he would be able to do so in the future. Accordingly, termination was in the child's best interests.

Affirmed.

/s/ Michael J. Riordan
/s/ Kathleen Jansen
/s/ Karen M. Fort Hood