

STATE OF MICHIGAN
COURT OF APPEALS

In re HEARD/BRUCE, Minors.

UNPUBLISHED
November 17, 2016

No. 331676
Wayne Circuit Court
Family Division
LC No. 13-511403-NA

Before: M. J. KELLY, P.J., and MURRAY and BORRELLO, JJ.

PER CURIAM.

Respondent, C. Stevenson, appeals as of right a circuit court order terminating her parental rights to the minor children, TH and DB, pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).¹ We affirm.

Respondent first challenges the statutory grounds for termination of her parental rights. In order to terminate parental rights, the trial court must find that at least one statutory ground for termination has been established by clear and convincing evidence. *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). This Court reviews that finding under the clearly erroneous standard. MCR 3.977(K). A finding is clearly erroneous if the reviewing court has been left with a definite and firm conviction that a mistake has been committed. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in finding clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). The children were removed from respondent's care on January 24, 2013, amidst allegations and evidence of physical, emotional, and verbal abuse. Most notably, TH had been found with "whip marks" all

¹ Although the trial court's order actually cites MCL 712A.19b(3)(c)(ii) (other conditions exist that cause child to come within the court's jurisdiction) instead of MCL 712A.19b(3)(c)(i), we conclude, and the parties agree, that this is a clerical error. The supplemental petition sought termination of respondent's parental rights pursuant to § 19b(3)(c)(i), petitioner relied on § 19b(3)(c)(i) at the termination hearing, the trial court cited § 19b(3)(c)(i) in its oral opinion from the bench, and respondent, while citing § 19b(3)(c)(ii) in her brief on appeal, actually applies the language of § 19b(3)(c)(i) in her analysis. Therefore, it is apparent that the trial court actually relied on § 19b(3)(c)(i) not § 19b(3)(c)(ii), in addition to §§ 19b(3)(g) and (j).

over his back that he attributed to respondent striking him with an extension cord and switch. Respondent also verbally terrorized TH in front of faculty, staff, parents, and other students at TH's school, because he failed to put on his school uniform before leaving the house that morning. These events raised questions regarding respondent's parenting skills and mental health, and precipitated the removal of the children from respondent's care.

Over the course of the next three years, respondent was offered a multitude of services intended to improve her parenting skills and address her mental health issues. But as the trial court found, respondent refused to fully participate in services, claiming that they were not required. And, to the limited extent that respondent did participate in services, she did not benefit from them. For example, Families First was brought into the home to aid respondent, but the services were terminated after only two weeks because of respondent's non-compliance. Respondent was also repeatedly offered individual therapy to address, among other things, her anger management, but she failed to consistently attend therapy sessions and lied to caseworkers about her participation in counseling. Respondent refused to take the medication prescribed for her mental health issues, and her belief that she did not require mental health services was a recurring theme.

To the extent that respondent did participate in services, the evidence presented at the termination hearing clearly established that respondent failed to benefit from the services. Throughout the entire three years the children were in care, respondent continued to exhibit volatile, hostile, and threatening behavior toward the foster care workers and TH's paternal grandmother. Respondent steadfastly adhered to the belief that others were responsible for her plight. Caring for the children overwhelmed her, and she was unable to ensure that TH regularly attended his therapy sessions and medication review appointments. When respondent exhibited some substantial compliance with the treatment plan, DB was returned to her care in October 2014. However, he only remained in respondent's home for nine months before being removed again after there was evidence that respondent was physically abusing the child. At the conclusion of the termination hearing, evidence supported the conclusion that respondent was in no better position to parent her children than she was at the time they were removed from her care.

There was also evidence that respondent would not be in a position to appropriately and safely parent her children anytime in the foreseeable future. Respondent lacked the insight necessary to effectuate permanent change in her behavior. Thus, she was destined to repeat the pattern of abuse. At the onset of the case, a clinician at the Center for Child Studies noted that respondent had very poor insight into why the children came into care and that this lack of insight would prevent her from benefitting from services, and impede her progress toward reunification. More than two and a half years later, and approximately four months before the termination hearing, respondent was again evaluated at the Clinic for Child Study. At this September 2015 evaluation, the clinical psychologist concluded that respondent significantly minimized her need for treatment and lacked insight into the reasons the children came into care. The clinician reasoned that this lack of insight would be a barrier to respondent benefitting from the treatment offered. The psychologist recommended that acute caution be exercised in considering reunification of respondent with her children. The findings of the psychologist in September 2015, are nearly identical to the observations noted by the psychologist at the clinic

evaluation in April 2013. After nearly three years of services, respondent had made virtually no progress.

Respondent's own testimony evidences her lack of insight. At the time of the termination hearing, she continued to deny that TH was the victim of abuse or that she was the perpetrator. She also testified that she did not understand why her sons were removed from her care. Respondent blamed others for her problems and continued to insist that relatives, teachers, school staff, and foster care workers were lying when they reported incidents of abuse and inappropriate parenting. Both of the psychologists explained that an individual who lacks insight into their problems has little hope of successfully benefitting from services and altering their behavior. This was true for respondent because there was no indication that she adequately addressed her mental health issues or improved her parenting skills.

Considering the foregoing, the trial court did not clearly err in finding that grounds for termination were established under MCL 712A.19b(3)(c)(i), (g), and (j) because respondent failed to properly care for her children, she would not be able to properly parent her children within a reasonable time considering their ages, and the children were reasonably likely to be harmed if returned to her care.

Respondent also challenges the trial court finding that termination of her parental rights was in the children's best interests. "If the court finds that there are grounds for termination of parental rights and that termination of parental right 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). Whether termination of parental rights is in a child's best interests must be proven by a preponderance of the evidence. *In re Moss*, 301 Mich App at 90. We review for clear error a trial court's finding that termination of parental rights is in a child's best interests. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). The court may consider several factors when deciding if termination of parental rights is in a child's best interests, including "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 35, 41-42; 823 NW2d 144 (2012). The court may also consider psychological evaluations, the child's age, continued involvement in domestic violence, and a parent's history. *In re Jones*, 286 Mich App at 129.

The foregoing factors support the conclusion that termination of respondent's parental rights was in the children's best interests. Respondent never fully addressed her deficient parenting skills and mental health issues, and she failed to demonstrate that she could safely and appropriately parent her children. Over the course of several years, respondent was offered services, but failed to participate fully in her treatment plan. To the extent that she did participate in services, she clearly did not benefit from them. Further, TH had special needs that required consistent attendance at therapy sessions and medication appointments. Notwithstanding his diagnosis of ADHD and PTSD, respondent continued to minimize TH's special needs and frequently opined that he did not require mental health care services. Then, when given the opportunity, respondent did not demonstrate that she could meet her son's medical needs.

Respondent asserts that in lieu of terminating her parental rights, the children could have been returned to her care with in-home services to ensure their safety. However, respondent had consistently rejected services and there was no credible evidence to support a finding that she suddenly would become amenable to in-home services if the children were returned to her care. Alternatively, respondent suggests that the children should have been placed with relatives. However, no relative came forward to care for DB and respondent has not identified any such relative. With respect to TH, while he was in relative care at the time of the termination hearing, after termination and pursuant to the same order, TH was placed with his biological father. Respondent suggests that because TH was with his father, termination of her rights was unwarranted. But any scenario that included respondent maintaining her parental rights would not result in the permanency and stability that TH required. The record supports a finding that although reunification with his father was possible, efforts to reunify TH with his father could be hindered by respondent's issues. Respondent's proposed alternative arrangement to terminating her rights would leave open the possibility of a relationship someday with respondent. Considering respondent's history, any possibility of a continued relationship with respondent was not in TH's best interests.

At the time the children were removed from respondent's care, TH was five years old and DB was 10 months old. The children had been in care for nearly three years while they waited for respondent to gain insight into the issues that precipitated their removal, and benefit from the services offered. Given the evidence presented, the trial court did not clearly err when it concluded that termination of respondent's parental rights was in the children's best interests. The children were entitled to stability and permanence in order to facilitate their healthy growth and development.

Affirmed.

/s/ Michael J. Kelly
/s/ Christopher M. Murray
/s/ Stephen L. Borrello