

STATE OF MICHIGAN
COURT OF APPEALS

In re C. MARKOWSKI, Minor.

UNPUBLISHED
October 18, 2016

No. 332342
St. Clair Circuit Court
Family Division
LC No. 15-000192-NA

Before: SAAD, P.J., and JANSEN and M. J. KELLY, JJ.

PER CURIAM.

Respondent A. Markowski appeals the circuit court’s order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons provided below, we affirm.

A trial court must terminate a respondent’s parental rights if it finds that a statutory ground under MCL 712A.19b(3) has been established by clear and convincing evidence and that termination is in the child’s best interests. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014).

I. STATUTORY GROUNDS

Respondent challenges the trial court’s determination that the statutory grounds for termination had been proved by clear and convincing evidence. We review the trial court’s findings for clear error. *In re Laster*, 303 Mich App 485, 491; 845 NW2d 540 (2013). “A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court’s special opportunity to observe the witnesses.” *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

The trial court did not clearly err in finding that §§ 19b(3)(c)(i) and (g) had both been proven by clear and convincing evidence. Termination is proper under § 19b(3)(c)(i) if “182 or more days have elapsed since the issuance of an initial dispositional order” and the trial court finds by clear and convincing evidence that “[t]he 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.” And termination is proper under § 19b(3)(g) if “[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.”

Here, the child came into care primarily due to respondent's mental health problems, which necessitated an involuntary psychiatric hospitalization. Respondent was unable to arrange for anyone to look after the child during her commitment. The initial dispositional order was entered on June 15, 2015, and the supplemental petition was filed more than 182 days later on February 3, 2016. The evidence at the hearing showed that respondent's mental health problems had not been successfully treated. She did not complete counseling, did not take her medications as directed, and continued to struggle with thoughts of suicide, which led to additional hospitalizations during the pendency of the case. A course of dialectical behavior modification was deemed more appropriate for respondent's needs than individual counseling. Respondent had not begun the program, claiming that she was too busy working to attend. Respondent believed that she was fine because she was taking a new medication, yet she had threatened suicide the day before the hearing. Such evidence showed that respondent's mental health problems were not likely to be rectified within a reasonable time given the child's age, and that there was no reasonable expectation that she would be able to provide proper care and custody for her child within a reasonable time. Thus, the evidence supported termination of respondent's parental rights under §§ 19b(3)(c)(i) and (g).

The trial court did not explain the factual basis for its reliance on 19b(3)(j) as an additional ground for termination. But because petitioner need only "establish by clear and convincing evidence the existence of one statutory ground to support the order for termination of parental rights," *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012), and the trial court did not clearly err in finding that §§ 19b(3)(c)(i) and (g) had both been proved, we need not consider whether the evidence supported termination under § 19b(3)(j) as well. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

II. BEST INTERESTS

Respondent also challenges the trial court's determination regarding the child's best interests. Whether termination of parental rights is in the child's best interests is determined by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court's decision regarding the child's best interests is reviewed for clear error. *In re White*, 303 Mich App at 713.

In deciding whether termination is in the child's best interests, the court considers a variety of factors touching on the child's needs, the parent's ability to meet those needs, and the relationship between the parent and child. *Id.* at 713-714. Some relevant factors include the parent's history of substance abuse or mental health issues, *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001), the parent's compliance with a case service plan, *In re White*, 303 Mich App at 714, the child's bond to the parent, *In re BZ*, 264 Mich App at 301, the parent's visitation history with the child, *In re White*, 303 Mich App at 714, the parent's parenting ability, *In re Jones*, 286 Mich App 126, 129-130; 777 NW2d 728 (2009), the advantages of a foster home over the parent's home, *In re Foster*, 285 Mich App 630, 634-635; 776 NW2d 415 (2009), and the child's "need for permanency, stability, and finality," *In re Gillespie*, 197 Mich App 440, 446-447; 496 NW2d 309 (1992).

Here, the trial court found that although respondent loved the child, she thought the way to demonstrate that love was to do everything for him, even spoon-feed him, which had

contributed to his developmental delays. Indeed, the child's development began to improve with proper services after he entered foster care. In addition, respondent failed to comply with services to meet her mental health needs and thus did not understand the extent of her illness or the need for continuing treatment despite continued thoughts of suicide and psychiatric hospitalizations. Consequently, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Michael J. Kelly