

STATE OF MICHIGAN
COURT OF APPEALS

In re A. HEIGHTON, Minor.

UNPUBLISHED
November 17, 2016

No. 332548
Calhoun Circuit Court
Family Division
LC No. 2015-000079-NA

Before: BOONSTRA, P.J., and SHAPIRO and GADOLA, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to her minor daughter under MCL 712A.19b(3)(b)(i) (parent caused physical injury or physical or sexual abuse of the child or a sibling of the child and there is a reasonable likelihood that the child will suffer injury or abuse if returned to the parent’s home), (c)(i) (conditions leading to adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm).¹ We affirm.

The trial court took jurisdiction over the minor child with regard to respondent after she admitted that she was incarcerated for possessing methamphetamine, which rendered her unable to provide the child with proper care and custody. Thereafter, respondent failed to adequately participate in or benefit from services. She continued to abuse drugs and refused to end a relationship with a boyfriend that involved domestic violence and illicit drug use. At various times throughout the proceedings, respondent failed to maintain contact with the Department of Health and Human Services (DHHS) and failed to consistently visit her daughter. During visits, respondent behaved inappropriately and caused emotional harm to the child. At the time of the termination hearing, respondent’s daughter expressed that she no longer wanted to visit respondent. The child was placed with caretakers who were willing to adopt her and who could provide a safe and stable home.

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). If this Court concludes

¹ The trial court also terminated the parental rights of the child’s father as part of the same order in which it terminated respondent’s parental rights. The father is not a party to this appeal.

that the trial court did not clearly err by finding that sufficient evidence supported termination under at least one statutory ground, we need not address any additional grounds. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). On appeal, respondent explicitly concedes that the trial court did not clearly err by finding that termination was proper under a statutory ground, and we agree that the evidence amply supported termination under at least MCL 712A.19b(3)(g). Rather, respondent argues that termination was not in the 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). We review a trial court’s best-interest determination for clear error. *Id.* When considering best interests, the focus is on the child rather than the parent. *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013). The trial court may consider factors such as “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 (citations omitted).

In this case, the trial court found that termination of respondent’s parental rights was in the child’s best interests because the child feared being in respondent’s custody, she was doing well in her placement, the bond between respondent and the child was fragile, and respondent could not provide the child with stability. These findings were adequately supported by the record. Evidence at the termination hearing revealed that respondent failed to attend several visits and failed to provide proper care, which caused the child emotional harm. Respondent was often incarcerated, and she failed to contact DHHS or the child for months at a time during the proceedings. Against the advice of DHHS, respondent remained in a romantic relationship with a man who engaged in criminal behavior and domestic violence. Further, although evidence suggested that a bond existed between respondent and her daughter, a caseworker testified that the bond was “very damaged” and “fragile.” At the time of termination, the child no longer wanted to associate with respondent. In contrast to the child’s damaged relationship with respondent, the child was attached to her foster parents. They provided for her needs and were willing to adopt her. All of this evidence weighed in favor of the trial court’s finding that termination was in the child’s best interests. *In re Olive/Metts*, 297 Mich App at 41-42. Indeed, it was unlikely that the child could ever be returned to respondent’s care in light of her persistent substance abuse, failure to maintain proper housing and employment, and pattern of disappearing from the child’s life. *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012).

Respondent argues that the trial court failed to consider any factors or to take testimony before deciding the issue of the child’s best interests, but this argument is unsupported by the record. As discussed above, ample evidence supported the trial court’s findings regarding the child’s best interests. Respondent also argues that she made significant progress during the proceedings, but the evidence demonstrates the opposite conclusion. At the time of termination, respondent was placed at a substance abuse treatment center because she violated the terms of her probation for a methamphetamine-related charge. Respondent admitted that she used illegal drugs with her boyfriend between September 2015 and January 2016. Multiple caseworkers testified that respondent had not made any progress, and she would not make progress even if she was given more time to do so. Respondent’s inability to maintain housing and employment was also apparent throughout the proceedings, and her inappropriate behavior at parenting visits

caused the child emotional harm. In sum, the trial court's finding that termination was in the child's best interests was not clearly erroneous.

Respondent also raises the unpreserved argument on appeal that the trial court violated her constitutional right to parent her child when it terminated her parental rights. The Due Process Clause of the Fourteenth Amendment of the United States Constitution protects "the interest of parents in the care, custody, and control of their children" *Troxel v Granville*, 530 US 57, 65; 120 S Ct 2054; 147 L Ed 2d 49 (2000). However, once a statutory ground for termination is established under MCL 712A.19b(3), "the liberty interest of the parent no longer includes the right to custody and control of the children." *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000), superseded in part by statute on other grounds as recognized by *In re Moss*, 301 Mich App at 83. As discussed above, respondent concedes that the trial court did not clearly err by finding that a statutory ground existed for termination, and the evidence shows that there was no clear error in that regard. Therefore, respondent's liberty interest "no longer include[d] the right to custody and control" of her daughter. *In re Trejo*, 462 Mich at 355. Respondent has not established plain error with regard to her constitutional right to parent.

Affirmed.

/s/ Mark T. Boonstra
/s/ Douglas B. Shapiro
/s/ Michael F. Gadola