

STATE OF MICHIGAN
COURT OF APPEALS

In re C. J. RIDENOUR, Minor.

UNPUBLISHED
December 20, 2016

No. 332647
Wayne Circuit Court
Family Division
LC No. 15-519366-NA

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

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights with respect to his minor child, CJ, under MCL 712A.19b(3)(c)(i) (conditions resulting in adjudication persist), (g) (failure to provide proper care and custody), and (h) (child deprived of normal home in excess of two years due to imprisonment).¹ We affirm

CJ was born in March 2015. He tested positive at birth for opiates and tetrahydrocannabinol (THC), and remained in the hospital two weeks after birth due to the severity of the withdrawals he experienced. CJ was removed from the care and custody of respondent and CJ's mother on March 27, 2015 and was placed with the child's maternal grandmother and step-grandfather.

The trial court assumed jurisdiction of CJ at the hearing held April 6, 2015. The trial court ordered respondent to comply with a treatment plan that included obtaining and maintaining suitable housing and a legal income, attending parenting classes and substance abuse counseling, submitting to random drug screens that would include testing for alcohol, and attending regular visits with CJ.

In June 2015, respondent traveled to Pennsylvania for a job that he anticipated would last for two months. On June 28, 2015, he was arrested in Pennsylvania and ultimately convicted of carrying a firearm without a license. The foster care worker testified that respondent had been sentenced to two and one half years' to five years' incarceration. While incarcerated in Pennsylvania, respondent participated in drug and alcohol services. Due to his incarceration,

¹ Respondent mother's rights were also terminated. She has not appealed.

however, respondent did not obtain housing or employment, did not complete parenting classes, and did not visit regularly with the child.

A supplemental petition was filed seeking termination of respondent's parental rights. At the conclusion of the termination hearing, the trial court adopted the report of the hearing referee and found that the statutory grounds for termination of respondent's parental rights under MCL 712A.19b(3)(c)(i), (g), and (h) had been established. The trial court further found that termination of respondent's parental rights was in CJ's best interests.

On appeal, respondent challenges the trial court's findings on both the statutory grounds and the best interests of the child. This Court reviews a circuit court's decision to terminate parental rights, as well as its determination of the child's best interests, for clear error. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). A decision is clearly erroneous if, although there is evidence to support it, after reviewing the entire record we are left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

To terminate parental rights, a trial court must find that at least one statutory ground under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). On appeal, respondent states that his parental rights were terminated under MCL 712A.19b(3)(a)(ii), (3)(c)(i), (3)(g), (3)(h), (3)(j), and (3)(k)(i). A review of the record, however, indicates that the trial court found grounds supporting termination with respect to respondent only pursuant to MCL 712A.19b(3) (c)(i), (g), and (h). Those statutory sections provide:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(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 . . .

(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.

* * *

(g) The 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.

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, 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.

In this case, the conditions that led to adjudication with regard to respondent were his lack of suitable housing, his inability to provide for CJ financially, and his previous alcohol abuse. At the termination hearing, foster-care worker Tresna Tupper testified that respondent had not complied with the court-ordered treatment plan. At the time of the hearing, respondent was incarcerated in Pennsylvania, and he admitted that he would not be able to provide for CJ while incarcerated. Prior to incarceration, respondent was not regularly employed and had a minimal work history. He testified that he had gone to Pennsylvania to obtain a job, but was arrested two weeks after arriving. There is no evidence that he ever provided a suitable home in Michigan or Pennsylvania, and he had been terminated early from parenting classes. Although respondent participated in substance abuse services while incarcerated, his incarceration prevented him from making further progress on the treatment plan. Even before incarceration, though he had been offered liberal parenting time he had visited CJ only five times.

The record therefore indicates by clear and convincing evidence that at the time of termination, the conditions that led to adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the age of the child. The trial court therefore did not clearly err when it found that termination was warranted under MCL 712A.19B(3)(c)(i). Because only one statutory ground for termination need be established, *In re Olive/Metts*, 297 Mich App 35, 41; 823 NW2d 144 (2012), we need not address whether the trial court also properly terminated respondent's parental rights under MCL 712A.19b(g) and (h). In any event, we note that the record indicates respondent's substantial noncompliance with the treatment plan, which is evidence that he will not be able to provide the child with proper care and custody. See *In re White*, 303 Mich App 701, 710-711; 846 NW2d 61 (2014).

A review of the record also demonstrates that termination of respondent's parental rights was in CJ's best interests. "If the court finds that there are grounds for termination of parental rights and that termination of parental rights 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). A trial court must find by a preponderance of evidence that termination is in a child's best interests. *In re Moss*, 301 Mich App at 89. Factors to consider include the child's bond to the parent; the parenting ability of the parent; the child's need for permanency, stability, and finality; and a comparison between the parent's home and the child's foster home. *In re Olive/Metts*, 297 Mich App at 41-42. The trial court can also consider the length of time the child was in care, the likelihood that the child could be returned home, and compliance with the case service plan. *In re Payne/Pumphrey/Fortson*, 311 Mich App 49, 64; 874 NW2d 205 (2015). In addition, the Court may consider the well-being of the child while in care and the possibility of adoption. *In re White*, 303 Mich App at 714.

Respondent admitted that he and CJ have no bond. Respondent failed to follow the treatment plan given him and has not demonstrated the ability to provide housing or income for CJ. Further, testimony from the foster-care workers shows that CJ is thriving in his current placement and CJ's grandparents have expressed a willingness to adopt him. Accordingly, CJ's

present situation and respondent's history and future outlook support the trial court's finding that terminating respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Michael F. Gadola
/s/ Karen M. Fort Hood
/s/ Michael J. Riordan