

STATE OF MICHIGAN
COURT OF APPEALS

In re WILDER, Minors.

UNPUBLISHED
December 12, 2017

No. 338195
Delta Circuit Court
Family Division
LC No. 16-000199-NA

Before: MARKEY, P.J., and HOEKSTRA and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals by right the trial court’s order terminating her parental rights to the three minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The events giving rise to this case occurred on February 3, 2016, when respondent arrived at an emergency room with her children requesting “pain medication.” According to petitioner, after being told that she did not require pain medication, respondent said “if she was not given any pain medication, that she would just take her children home and consume alcohol until she was not in any more pain.” Respondent was displaying withdrawal symptoms and “stated several times that she should just kill herself.” The nursing staff had to supervise respondent’s children for five hours while respondent slept. A similar incident had occurred in January 2016, which required hospital staff to care for the children for 11 hours.

A removal petition was filed on February 4, 2016. At the preliminary hearing, respondent admitted to certain allegations in the petition. She maintained that she had legitimate medical reasons for visiting the emergency room but agreed that she was unable to care for her children on those days. Respondent explained that she abused substances by “overtaking prescribed prescription drugs” and taking prescription drugs from other people. Respondent agreed that her substance abuse required treatment and prevented her from properly caring for her children. The trial court accepted respondent’s plea and took jurisdiction over the children.

At the March 2016 dispositional hearing, it was established that respondent had recently been arrested for domestic violence and resisting and obstructing a police officer. The court noted that respondent was reportedly “out of control” and “under the influence.” In June 2016, respondent entered inpatient treatment for thirty days. Respondent maintained that she successfully completed that treatment. But in September 2016 law enforcement officials found respondent walking in a zombie-like state around 2:00 a.m., and she struck an officer in the back of the head while she was being placed under arrest. The caseworker filed a motion to show-cause hearing, to which respondent pleaded no-contest. The court found respondent in contempt

of court for violating its order that she not consume alcohol. Respondent later explained that the only detail she recalled from that incident was taking “shots” with her roommate in remembrance of their recently deceased dog. At the time the court found respondent in contempt of court, however, she had begun inpatient treatment in Saginaw Michigan, eight hours from her children.

At the December 2016 review hearing, respondent testified as to her various attempts at treatment in Michigan’s Lower Peninsula. For various reasons, respondent entered several different treatment centers. She claimed that medication prescribed at one of the facilities caused her to have suicidal thoughts, which eventually led to her being hospitalized. She maintained that ultimately she successfully completed treatment at Kairos Health Care in Lansing. She presented the trial court with a certificate indicating that respondent had successfully taken “the first steps toward a sustained recovery.” In early February 2017, however, petitioner filed a termination petition, alleging that respondent had admitted to abusing substances she was not prescribed, including marijuana and Xanax. Petitioner also alleged that respondent lacked a proper home and had failed to maintain contact with the case worker.

The day after the petition was filed,¹ there was an incident between the caseworker and respondent. Respondent became frustrated when she had difficulty buckling the children into their car seats. The caseworker maintained that respondent threatened her, which respondent denied. The police were called. It was reported to the caseworker that respondent later told people at the shelter where she was staying “about how she wanted to get high and potentially threatening to kill herself.” The shelter asked respondent to leave.

At the March 2017 termination hearing, testimony was presented regarding respondent’s failure to participate in and benefit from services. A report from the Kairos Lansing facility was admitted into evidence.² It indicated that respondent did not successfully complete treatment. To the contrary, she would “threaten suicide” when asked to comply with the rules. Her “erratic” behavior was greatly disturbing and caused “all the other clients in our facility to suffer.” The caseworker was not aware of any outpatient treatment that respondent was receiving although respondent had recently returned to “Freedom Clinic.” Respondent maintained that she attended “AA or NA meetings” numerous times a week, but she provided no verification. She had last attended an appointment with her therapist in January 2017, and before that, in August 2016. Respondent agreed that she had recently missed a medication review, which was especially troubling because respondent indicated that she had recently stopped taking her medication for three days on the advice from “church people” that she “try to go natural.” Respondent agreed that she had reported being in substantial emotional distress at her last appointment and had gone to the emergency room in January because of anxiety. The caseworker also advised that respondent had been discharged from services relating to her parenting skills because she failed to participate.

¹ It does not appear that respondent was aware that a termination petition had been filed.

² We have reviewed the record, and find the trial court did not clearly err in determining that the report originated from the Lansing facility, as respondent suggests.

Respondent first argues that the trial court clearly erred by finding clear and convincing evidence to terminate her parental rights. We disagree. We review the trial court's factual findings on the statutory grounds and the child's best interests for clear error. MCR 3.977(K); *In re Utrera*, 281 Mich App 1, 15; 761 NW2d 253 (2008). "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 found sufficient evidence to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i), which provides as follows:

(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 either of the following:

(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.

The primary condition that led respondent's adjudication was her substance abuse. There was ample evidence to support the trial court's finding that that respondent's substance abuse was an ongoing condition. Respondent's substance abuse issues persisted throughout the proceedings and took different forms. After purportedly successfully completing inpatient treatment in July 2016, respondent was arrested in September 2016 for being drunk and disorderly and resisting and obstructing an officer. Respondent again entered inpatient treatment in October 2016 and proceeded to transfer to numerous facilities for various reasons. She returned to the Upper Peninsula in December 2016 having failed to successfully complete any program. Respondent admitted to using Xanax and marijuana in January 2017, neither of which she was prescribed. In February 2017, she tested positive for alcohol.

We also find no clear error in the trial court's finding that there was not a reasonable likelihood that respondent would be able to rectify her substance abuse within a reasonable time. Respondent suggests that she could have addressed her substance abuse through Dialectical Behavior Therapy (DBT), which her therapist recommended. The court acknowledged the purported benefits of this therapy but doubted it would "rectify the majority of the problems." Indeed, the therapist explained that DBT was designed to treat borderline personality disorder. The therapy was also extensive and estimated to take about a year. Given respondent's failure to participate and benefit from services and her failure to maintain contact with the caseworkers, we conclude that the trial court did not clearly err in finding it "highly unlikely" that respondent would complete the program.

Because only one statutory ground for termination is needed, we will not address the evidence supporting the court's findings under MCL 712A.19b(3)(g), and (j). *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011).

We also find no clear error in the trial court's determination that termination of respondent's 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 rights is in the child's best interests, the court shall order termination of parental rights . . ." MCL 712A.19b(5). The trial court properly considered the children's bond to respondent and respondent's visitation history with the children. *In re White*, 303 Mich App 701, 713-714; 846 NW2d 61 (2014). The caseworker opined that respondent had a minimal bond with the two youngest children. While the worker acknowledged there was a bond between respondent and her eldest child, she thought that bond had deteriorated from respondent's failure to exercise her parenting time. Indeed, due to respondent's decision to seek inpatient treatment in the Lower Peninsula and her decision to cease participating in visits in February 2017, respondent had almost no parenting time with the children over the course of October and November 2016, and February and March 2017. Under those circumstances, the trial court did not clearly err in finding that there was minimal bond between respondent and her children. The court also noted the "possibility of adoption" with the foster care family and found "[t]here's no reasonable expectation that [respondent] could properly parent these children given her track record." See *In re White*, 303 Mich App at 714. Clearly, the court did not find respondent to be credible. Considering that respondent fails to present a persuasive argument and "giving due regard to the trial court's special opportunity to observe the witnesses," *In re BZ*, 264 Mich App at 296-297, we find the trial court did not clearly err in determining that termination of respondent's parental rights was in children's best interests.

We affirm.

/s/ Jane E. Markey
/s/ Joel P. Hoekstra
/s/ Amy Ronayne Krause