

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 20, 2018

In re HEACOCK/ADAMUS, Minors.

No. 342254
St. Clair Circuit Court
Family Division
LC No. 16-000285-NA

Before: O'CONNELL, P.J., and CAVANAGH and SERVITTO, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) (failure to rectify the conditions that led to the adjudication), MCL 712A.19b(3)(g) (failure to provide proper care or custody), and MCL 712A.19b(3)(j) (reasonable likelihood of harm). We affirm.

I. BACKGROUND

In September 2016, the Department of Health and Human Services (DHHS) removed the minor children from respondent's home because respondent had unaddressed mental health concerns after exhibiting suicidal ideation. She also had no housing and no source of income or employment. Throughout the course of the proceeding, respondent had difficulty maintaining employment. She failed to attend counseling. She did not show up for numerous drug screens, although she tested negative every time she did attend. Respondent also exhibited an unwillingness to learn new parenting skills at parenting time visits. Both respondent's counselor and her life skills coach terminated respondent's participation in their programs because respondent failed to attend scheduled appointments.

In addition, respondent had difficulty obtaining suitable housing. She ultimately moved in with her boyfriend, who was investigated for inappropriate sexual contact with his sister that lasted for about one year, although he was never criminally charged. Respondent was not concerned about this history, and she later married him. Respondent also gave birth to a third

child during this proceeding. DHHS provided respondent with services to avoid removing that child from the home.¹

When respondent demonstrated that she was not participating in or benefiting from services, DHHS filed a petition to terminate respondent's parental rights in August 2017. After a termination hearing in January 2018, the trial court found statutory grounds to terminate respondent's parental rights and found that termination was in the children's best interests. Respondent now appeals both findings.

II. ANALYSIS

A. STANDARD OF REVIEW

This Court reviews for clear error the trial court's findings that there were statutory grounds for termination and that termination was in the child's best interests. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). We defer to the trial court's opportunity to evaluate the credibility of witnesses. *In re Fried*, 266 Mich App at 541.

B. STATUTORY GROUNDS

"In order to terminate parental rights, the court must find that at least one of the statutory grounds set forth in MCL 712A.19b has been met by clear and convincing evidence." *In re Fried*, 266 Mich App at 540-541. In this case, the trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), which, at the time of the termination proceedings, provided, in pertinent part:

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.

* * *

¹ That child was not involved in this proceeding.

(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.^[2]

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

1. MCL 712A.19b(3)(c)(i)

Termination is proper when “the totality of the evidence” shows that the respondent did not “accomplish[] any meaningful change in the conditions” that led to the adjudication. *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009). The requirements of a parent-agency treatment plan, which may be put in place after the filing of the initial petition for removal and may contain conditions that were not in the original petition, may support termination under subdivision (c)(i). *In re R Smith*, ___ Mich App ___, ___; ___ NW2d ___ (2018) (Docket No. 339478); slip op at 2, 9-10. MCL 712A.19b(3)(c)(i) also requires the trial court to find that the conditions could not be rectified within a reasonable time, which includes how long it will take for the respondent to improve conditions and how long the children can wait for the respondent's improvement. *In re Dahms*, 187 Mich App 644, 648; 468 NW2d 315 (1991).

Respondent's progress with the parent-agency plan was poor, she made little progress, and she failed to comply with most of the requirements. Respondent was not receptive to working on her parenting skills, and her attitude worsened over time. Respondent's parenting coach closed the case early because respondent failed to participate in services. Respondent later completed parenting classes after DHHS filed the termination petition. Despite respondent's testimony about how much she learned from the parenting classes, respondent had previously stated her belief that parenting classes were “stupid” and that she would not take them again. Accordingly, the trial court found respondent's newfound opinion about parenting classes doubtful, and we will not disturb this finding.

Respondent also failed to attend individual counseling regularly. She only attended an appointment after her counselor threatened to close the case because of respondent's repeated failure to attend appointments. In addition, respondent stopped taking the medication that was helping her mental health diagnosis when she became pregnant. She decided against restarting her medication later because she believed that she did not need it. Therefore, respondent failed to address her mental health needs.

Additionally, respondent had not been able to maintain adequate employment. Although respondent was employed at the time of the termination hearing, she had been in this position for

² MCL 712A.19b(3)(g) has since been amended by 2018 PA 58, effective June 12, 2018.

only about one month. Respondent's employment history showed a pattern of obtaining jobs only to lose them shortly afterwards; the longest that she had held a job was about one month. The trial court noted this pattern and ascribed little significance to respondent's current job. Respondent's behavior and lack of progress supported the trial court's finding that the conditions that led to the adjudication remained largely unchanged, except for respondent's ability to find housing, and that there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the children's ages.

2. MCL 712A.19b(3)(g)

The trial court did not clearly err by finding that respondent was not and would not be able to provide proper care or custody. Respondent believed she was a good parent, so she was not receptive to learning new parenting techniques. Respondent similarly believed the children were fine prior to their removal from the home, and respondent blamed DHHS for trying to take the children away. During parenting visits, respondent ignored attention-seeking behavior from the children and tended to ignore the older child in favor of the younger child. During these visits with the children, respondent spent a lot of time on her phone, used the phone as a distraction for the children, and ignored the children to text other people. The parenting-time visits were often "chaotic" and did not improve. Furthermore, the children exhibited behavioral issues after their visits with respondent. Those behavioral issues ceased when the visits with respondent were suspended, and the children began making significant improvements within two weeks after the visits stopped. Therefore, the evidence showed that respondent could not provide proper care or custody for the children. Moreover, considering the length of time that had elapsed without change and the young ages of the children, there was no reasonable expectation that respondent would be able to do so within a reasonable time.

3. MCL 712A.19b(3)(j)

Finally, the evidence showed a reasonable likelihood of harm to the children if they were returned to respondent. Initially, the children experienced such severe behavioral issues that the first set of foster parents asked that the children be removed. By contrast, the children no longer required mental health services after respondent's visits had been suspended. The rapid improvement the children experienced after respondent was removed from their lives was strong evidence of the emotional harm they had faced while living with respondent. Furthermore, one of the caseworkers was concerned that the children would regress if they were reunified with respondent. Therefore, the trial court did not clearly err by determining that there was a reasonable likelihood of harm to the children if returned to respondent.

C. BEST INTERESTS

Once DHHS has established a statutory ground for termination by clear and convincing evidence, the trial court must order termination of parental rights if it finds that termination is in the best interests of the children. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 352-353; 612 NW2d 407 (2000). When deciding whether termination is in the children's best interests, the trial court may consider "the child[ren]'s bond to the parent, the parent's parenting ability, the child[ren]'s need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823

NW2d 144 (2012) (citations omitted). The trial court may also consider evidence that the children are not safe with the parent, the children are thriving in foster care, and the foster care home can provide stability and permanency. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011).

The trial court did not clearly err by finding that termination was in the children's best interests. The children had been doing well in foster care, and reunification with respondent would have been detrimental to their progress. Respondent could not provide the stability and consistency the children needed. Moreover, one of the therapists believed that the children had suffered too much trauma and neglect by the time they were removed from respondent's care, and she did not believe that the children were bonded to respondent. Accordingly, the evidence supported the trial court's determination that termination was in the children's best interests.

We affirm.

/s/ Peter D. O'Connell
/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto