

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* S. PERRY, Minor.

UNPUBLISHED  
November 27, 2018

No. 343357  
Kalamazoo Circuit Court  
Family Division  
LC No. 2016-000602-NA

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Before: MURPHY, P.J., and O'CONNELL and BECKERING, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order terminating her parental rights to the minor child, SP, under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (c)(ii) (other conditions exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm). The child was removed from respondent's care in December 2016 because of respondent's drug use. Respondent was referred to various services throughout the case, including mental health and substance-abuse counseling, but her participation in services was minimal. Respondent could not participate in parenting-time visits because she did not produce clean drug screens. Respondent was unable to maintain stable housing, and she found employment only one day before the termination hearing. The trial court terminated respondent's parental rights in March 2018. We affirm.

I. BEST INTERESTS

Respondent argues that the trial court clearly erred by determining that termination was in the child's best interests. This Court reviews the trial court's best-interest determination for clear error. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). "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).

At the outset, respondent does not challenge the statutory basis for termination. Accordingly, we accept that the trial court did not clearly err by finding statutory grounds for termination. See *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998), overruled in part by *In re Trejo Minors*, 462 Mich 341, 352-354; 612 NW2d 407 (2000). Moreover, respondent's unabated drug use, her inability to maintain stable housing, and her failure to participate in services, particularly mental health treatment, supported a statutory basis for termination under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j).

“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.” *Olive/Metts Minors*, 297 Mich App at 40. When the trial court considers a child’s best interests, the focus must be on the child and not the parent. *In re Moss*, 301 Mich App 76, 88; 836 NW2d 182 (2013). “The trial court should weigh all the evidence available to determine the [child’s] best interests.” *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). “In deciding whether termination is in the child’s best interests, the court may consider 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.” *Olive/Metts Minors*, 297 Mich App at 41-42 (citations omitted). Other considerations include the length of time “[t]he child was in foster care or placed with relatives” and the likelihood that “the child could be returned to [the parent’s] home within the foreseeable future, if at all.” *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012).

In this case, the trial court considered several factors in determining whether termination of respondent’s parental rights was in the child’s best interests. The trial court found that the child was thriving in foster care, in which he spent the majority of his young life, and the likelihood of adoption was high. The trial court further found that the child needed a decent environment in which to mature. In addition, the trial court noted that respondent had a severe mental illness and difficulties with substance abuse. Having discussed respondent’s failure to participate in and benefit from services, the trial court determined that respondent still had problems with mental health, substance abuse, violence, and anger. Finally, the trial court determined that respondent’s bond with the child had diminished because of respondent’s failure to attend parenting-time visits on a regular basis.

Respondent has not shown that these findings were clearly erroneous. She failed to participate in or show any benefit from services. At the time of the termination hearing, respondent was still screening positive for illicit drugs, she did not participate in counseling, she did not appear to be taking medications prescribed for her mental illness, her participation in parenting-time visits was inconsistent, and she did not have stable housing. Therefore, the trial court did not clearly err by determining that termination of respondent’s parental rights was in the child’s best interests.

## II. RESPONDENT’S PLEA

Respondent argues that the trial court erred by accepting her plea because she stated that she had a physical, mental, or emotional problem that the trial court failed to inquire about when it accepted respondent’s plea. This Court generally reviews constitutional issues do novo. *Kampf v Kampf*, 237 Mich App 377, 381; 603 NW2d 295 (1999). However, we review unpreserved constitutional issues “for plain error affecting substantial rights.” *In re TK*, 306 Mich App 698, 703; 859 NW2d 208 (2014).

First, respondent did not challenge the trial court’s jurisdictional order after she entered the plea, so respondent’s challenge to the plea-taking procedure at this stage constitutes an impermissible collateral attack on the trial court’s jurisdiction. See *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993). Moreover, the trial court ensured that respondent’s plea was knowing, understanding, and voluntary, as required by MCR 3.971(C)(1). After the trial court

advised respondent about how the case would proceed if she pleaded responsible and after respondent replied that she had a “little bit” of a physical, mental, or emotional problem that would affect her ability to offer a plea, the trial court asked respondent several questions about her plea. Respondent affirmed that she understood what was happening in court that day, answered that she did not have any questions, and agreed that she understood what the trial court was saying. Respondent next denied being under the influence of drugs or alcohol, denied offering the plea as a result of a threat or promise, and affirmed that the choice to enter the plea was hers. Respondent’s answers to the trial court’s questions showed that she understood the nature and consequences of her plea. Respondent was also represented by counsel. In short, respondent has not shown any defect in her plea.

We affirm.

/s/ William B. Murphy  
/s/ Peter D. O’Connell  
/s/ Jane M. Beckering