

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 15, 2018

In re L. Hobbs, Minor.

No. 343864
Gladwin Circuit Court
Family Division
LC No. 17-000085-NA

Before: RIORDAN, P.J., and RONAYNE KRAUSE and SWARTZLE, JJ.

PER CURIAM.

Respondent-mother appeals by right the trial court’s order terminating her parental rights to the minor child, LH, under MCL 712A.19b(3)(j) (reasonable likelihood of harm).¹ We affirm.

“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). Once a ground for termination is established, the trial court may order termination of parental rights if it finds that termination is in the child’s best interest. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). “We review for clear error both the court’s decision that a ground for termination has been proven by clear and convincing evidence and, where appropriate, the court’s decision regarding the child’s best interest.” *In re Trejo*, 462 Mich 341, 356–357; 612 NW2d 407 (2000); see also MCR 3.977(K). “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).

Here, the trial court terminated respondent-mother’s parental rights under MCL 712A.19b(3)(j). Termination is appropriate under this subsection when “[t]here 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.” MCL 712A.19b(3)(j).

¹ LH’s father voluntarily released his parental rights, and he is not a party to this appeal.

Respondent-mother has a long history with petitioner. In 2010, respondent-mother's parental rights to a daughter were terminated for abuse and neglect. In 2015, respondent-mother was convicted of fourth-degree child abuse and the trial court assumed jurisdiction over LH, only to relinquish it a year later. Finally, in 2017, petitioner initiated the instant proceedings, which led to the removal of LH from respondent-mother's care and eventual termination of respondent-mother's parental rights to LH. Respondent-mother began receiving services from petitioner in 2010, but has failed to benefit from them in any substantive way. Because the record shows that she has repeatedly endangered LH, we are not left with a definite and firm conviction that the trial court erred by terminating respondent-mother's parental rights.

First, the record reveals several instances where respondent-mother physically endangered LH by improperly restraining him. According to Dr. Byron David Barnes, a licensed psychologist who had worked with respondent-mother since 2010, LH told him that he had been put in handcuffs and placed in a dog cage. LH also told him that respondent-mother had the key to this cage. LH described the handcuffs as "heavy and shiny," and he explained that if he walked in them he would "shake and fall." LH also expressed fear of the handcuffs and of the dog cage. Dr. Barnes testified that respondent-mother restrained LH by locking him in a bedroom, placing him in a dog cage, and tying knots around his ankles. She asserted that these forms of restraint were meant to prevent LH from getting loose, but, in reality, it prevented LH from engaging in normal childhood behavior.

According to April Palmreuter, a Child Protective Services (CPS) worker, one of respondent-mother's sisters corroborated the allegations of handcuffing. Indeed, when Palmreuter visited the residence—described as a cluttered, chaotic, single-wide trailer in which ten people lived—she found holes close to the ground in LH's bedroom wall, which she believed were used to attach the handcuffs to the wall. Moreover, Palmreuter observed locks on both sides of LH's bedroom door higher than he could reach, and she expressed concern about these locks and their location because LH could become trapped inside the room. Despite Palmreuter asking that the locks be removed, the family refused.

Second, the evidence reveals that respondent-mother failed to meet the child's basic needs. The trial court took judicial notice that the complaint from the 2015 case had alleged that LH was not being given food and water when he asked for it. In this case, LH's foster mother testified that LH acted "animal-like" and "like a dog" and hoarded food when he first arrived in her care because he was insecure about whether he would be fed each day.

Moreover, respondent-mother and Monet Dixon-Leppi, a parent-support partner with Community Mental Health, testified that LH had a concerning history of playing with knives in a threatening manner. Because of this history, CPS instructed respondent-mother to lock all of the knives in the home in a safe. Nevertheless, respondent-mother or one of her family members left a package of steak knives on the counter one day. That night, respondent-mother woke to LH standing over her in her bed while holding a steak knife. Without apparent explanation, the child was taken to the emergency room the next morning with a broken arm.

Respondent-mother claimed that LH was severely impaired and had autism, making it difficult for her to parent him. Nevertheless, Dr. Barnes testified that an examination at Central Michigan University revealed that LH was not impaired and showed no signs of autism.

According to Dr. Barnes, respondent-mother's mistaken belief about LH's abilities was dangerous because LH could come to fulfill those expectations.

Third, the record reveals that respondent-mother's treatment of LH harmed the child emotionally. Dr. Barnes testified that LH suffered from PTSD from his experiences with respondent-mother and her family. The foster mother believed that LH had experienced trauma because of respondent-mother and her family and testified that LH would exhibit signs of fear when his uncle's name was mentioned. Indeed, the record shows that this trauma caused LH to soil himself on several occasions. When LH was removed from respondent-mother, his bowel troubles subsided, only to reappear when he was informed that respondent-mother would be visiting him. Although LH suffered from "major meltdowns" when he was first placed in foster care, LH had adjusted to his new settings by the time of the termination trial.

Finally, the evidence shows that respondent-mother was not likely to correct her parental deficiencies within any reasonable time. Dr. Barnes testified that respondent-mother suffered from mental-health issues and that she was dependent on family members for support. Respondent-mother had been offered numerous services for several years, but to no avail. According to Dr. Barnes, respondent-mother was not amenable to treatment and any change in her behavior would take years, if it could be accomplished at all. Moreover, Dr. Barnes believed that there was a reasonable likelihood that LH would be harmed if returned to respondent-mother, and he did not believe that respondent-mother could parent LH by herself in the near future. Dr. Barnes was additionally concerned with the use of the handcuffs because this was another form of restraint that persisted even after numerous years of services offered to respondent-mother.

Thus, the record confirms that respondent-mother repeatedly endangered LH's physical and emotional health. Because respondent-mother was unlikely to correct her parental deficiencies to provide a safe home for LH in the reasonable future, we agree with the trial court that MCL 712A.19b(j) supported termination of respondent-mother's parental rights. Moreover, because LH was receiving the care and support he required in foster care and respondent-mother was unable to provide that care within any reasonable time, we conclude that the trial court did not err by finding that termination of respondent-mother's parental rights was in LH's best interests.

Affirmed.

/s/ Michael J. Riordan
/s/ Amy Ronayne Krause
/s/ Brock A. Swartzle