

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* C. K. BALDWIN, Minor.

UNPUBLISHED  
December 20, 2018

No. 344061  
Wayne Circuit Court  
Family Division  
LC No. 16-523940-NA

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Before: MURRAY, C.J., and SHAPIRO and RIORDAN, JJ.

PER CURIAM.

Respondent-mother appeals as of right the termination of her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if child is returned to parent). 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). This Court reviews for clear error a trial court’s factual determination that statutory grounds exist for termination. *Id.*; 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).

Mother’s sole argument on appeal is that the trial court clearly erred in finding that statutory grounds existed to terminate her parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).<sup>1</sup>

The trial court found that termination of mother’s parental rights to the minor child was proper under MCL 712A.19b(3)(c)(i), (g), and (j), which state in relevant part:

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<sup>1</sup> Mother does not challenge the trial court’s finding that termination of her parental rights was in the minor child’s best interests.

(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:

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(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.

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(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.

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(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.

The trial court did not clearly err in finding that statutory grounds existed for termination of mother's parental rights. As petitioner argues on appeal, the same evidence supported the trial court's factual findings that each of these three statutory grounds existed. Mother struggled with a serious drug addiction. The child came into the court's care because mother was using heroin while the child was in the back seat of mother's car. Mother admitted to the DHHS that she used heroin and Xanax, that she used heroin regularly for seven years, that she used heroin up to three times per day, and that she had an \$80 a day heroin habit. The DHHS referred mother to inpatient substance abuse services, but mother discontinued those services against medical advice. The DHHS referred mother to a methadone clinic, but mother suffered a drug overdose while in that program, resulting in her hospitalization. The DHHS offered mother random drug screens, but mother never once participated in any of the 53 drug screens and offered no excuse why she did not participate. Mother repeatedly told the DHHS that she was not ready to stop using illegal drugs and that the child would be better off if she were adopted by someone else.

Although mother did not attend any pretrial hearings, she did testify at trial. During her testimony, mother did provide evidence that she eventually participated in and completed an inpatient substance abuse program. However, as the trial court noted, mother did not make the decision to enter this program until her daughter had been in the care of DHHS for nearly 13 months. And, although mother stated that she was sober on the day of trial, and that she had been sober for about three months, the trial court and the DHHS correctly noted that mother had a seven-year history of intensive heroin use and that she had only been drug-free for a short

period of time. During the pendency of this case, mother failed to complete one substance abuse program and she overdosed on illegal drugs while at a methadone clinic. Furthermore, mother never provided any drug screens to verify her claims that she was drug free, despite the fact that the DHHS offered her 53 opportunities to provide drug screens.

In addition to her significant substance abuse problem, mother failed to demonstrate that she could safely and adequately parent the child. During the period that the child was in care, mother only visited the child a handful of times, and when she did, testimony indicated that she spent that time eating, showering, and doing her hair, rather than visiting the child. Mother never obtained a legal source of income, she admitted throughout the case that she was transient, and although mother claimed that she had housing appropriate for the child at the time of trial, the DHHS had not evaluated the housing for appropriateness. Therefore, there was no evidence that the housing was physically appropriate for the child or that the other occupants of that housing could pass a criminal background check.

Furthermore, mother never completed any of the services to which she was referred by the DHHS, either for her substance abuse problem, her mental health diagnoses, or her parenting skills. The evidence indicated that, for the majority of the child's life, mother did not parent the child, but left the child in the care of other relatives. The record contains no evidence that mother remedied the conditions that brought the child into the trial court's custody, despite the fact that the child was in care for a year and a half and despite the many services that the DHHS offered mother. Even if mother had finally begun the process of addressing her substance abuse addiction at the time of trial, the trial court properly concluded that there was no evidence that there was any reasonable likelihood that the conditions that led to the adjudication would be rectified within a reasonable time, considering the child's age. Therefore, the trial court properly found that statutory grounds existed to terminate mother's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (g).

Likewise, the trial court properly found that statutory grounds existed to terminate mother's parental rights pursuant to MCL 712A.19b(3)(j). When mother did have custody of the child, she took the child in a vehicle while she was shooting up heroin. In addition, on the day before the DHHS filed the termination petition, mother gave birth to another child. At that time, mother tested positive for heroin, cocaine, and marijuana, and the child tested positive for heroin. Mother abandoned the child in the hospital and never returned for her. The trial court expressly found that the child at issue in this case "will be neglected in the long-term future" if returned to mother's care. We cannot conclude that the trial court clearly erred in finding that statutory grounds existed to terminate mother's parental rights pursuant to MCL 712A.19b(3)(j).

The trial court is not required to wait indefinitely for a parent to meet his or her treatment goals. *In re Dahms*, 187 Mich App 644, 647; 468 NW2d 315 (1991). In fact, this Court has held that termination of parental rights is appropriate when substance abuse is the condition that led to the adjudication of the child, repeated and extensive attempts to overcome the condition failed, there is no reasonable likelihood that the situation will be rectified within a reasonable time, and the parent failed to provide proper care and custody for the child. *In re Conley*, 216 Mich App 41, 43-44; 549 NW2d 353 (1996). "If a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent." *In re Terry*, 240 Mich App 14, 28; 610 NW2d 563 (2000) (quotation marks and citation omitted).

Affirmed.

/s/ Christopher M. Murray

/s/ Douglas B. Shapiro

/s/ Michael J. Riordan