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STATE OF MICHIGAN
COURT OF APPEALS

In re P. L. BRYANT, Minor.

UNPUBLISHED
January 17, 2019

No. 343535
Wayne Circuit Court
Family Division
LC No. 03-423833-NA

Before: LETICA, P.J., and CAVANAGH and METER, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to her minor daughter, PLB, under MCL 712A.19b(3)(g) and (j). We affirm.

I. BACKGROUND

Respondent is the biological mother of five children. Three of respondent's children were at issue in these proceedings: TTB, TAB, and PLB, who were 17, 16, and 6 years old, respectively, at the time these proceedings were initiated. Dating back to 2003, respondent has been the subject of seven Child Protective Services (CPS) complaints, four of which were substantiated. Four of respondent's children had come within the court's jurisdiction due to neglect and two also had delinquency cases.

In 2015, respondent's children were removed from her care following allegations of physical and sexual abuse, drug use, and neglect. The record shows that PLB was sexually abused while in respondent's care, and, as a result, suffers from post-traumatic stress disorder. PLB was also diagnosed with attention-deficit hyperactivity disorder (ADHD), developmental delays, and a speech impediment. Petitioner provided respondent with nearly two years' worth of services, including parenting classes and individual and family therapy. After successful completion of this treatment plan, respondent's children were returned to her in May 2017.

Respondent's care of the children, however, was short-lived. Five months after her children were returned to her, respondent and TAB committed retail fraud at a department store. Respondent fled the scene with all of the children but, later that night, respondent was stopped for driving under the influence of prescription drugs. All three children were in the vehicle at the

time. As a result of these crimes, respondent was incarcerated for 41 days and the trial court authorized petitioner to file a permanent-custody petition.

At the termination hearing, a CPS specialist testified that respondent had failed to consistently continue with the children's services after they were returned to her care. According to respondent's caseworker, PLB's diagnoses required several service appointments, but respondent had failed to consistently bring the child to those appointments. The caseworker also testified that respondent had been dishonest with petitioner about her drug addiction. Both witnesses opined that termination was in PLB's best interests. The CPS representative believed that termination was also in the best interests of the older children; respondent's caseworker, however, believed that termination was not in the older children's best interests because of their ages and their preference for respondent to retain her parental rights.

Respondent testified that she became disabled after a car accident in 1998 and that she was prescribed pain medication and marijuana to cope with these injuries. Respondent, however, did not provide any evidence of these prescriptions to the trial court. It is undisputed that respondent was precluded from driving while taking this medication. Respondent admitted that she had been abusing her medication for some time, but claimed that she ceased this abuse in the few months preceding trial. Respondent testified that petitioner had never offered her drug-treatment services because she had never admitted that she had a problem. Respondent stated that her poor decisions—which include four theft-related convictions and a conviction for contributing to the delinquency of a minor—were a result of her drug abuse and depression, but that she had a “clear mind” since she had become clean. Respondent believed that her parenting abilities would improve as a result of her sobriety.

The trial court concluded that MCL 712A.19b(3)(g) and (j) supported termination of respondent's parental rights to all three children. The trial court found that termination was not in the older children's best interests because of their ages and preferences. With regard to PLB, however, the trial court found that respondent had years to resolve her medication issue and waited until the day of trial to admit her problem. The trial court noted PLB's young age and need for permanence and stability after years of petitioner's intervention. Thus, the trial court concluded that termination of respondent's parental rights was in PLB's best interests. This appeal followed. Because the trial court did not terminate respondent's rights to her older children, this appeal addresses only the trial court's termination of respondent's parental rights to PLB.

II. ANALYSIS

“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 must order termination of parental rights if it finds that termination is in the child's best interests. *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).

On appeal, respondent challenges the trial court's statutory-grounds and best-interest determinations. The trial court terminated respondent's parental rights under the following provisions of MCL 712A.19b(3), which, at the time of respondent's trial, authorized termination of a parent's parental rights upon a finding of either of the following:

(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.^[1]

* * *

(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.

Respondent's statutory-grounds argument is related to the second prongs of subsections (g) and (j). Essentially, respondent argues that, because she has begun to address her drug problem, she will be able to provide a safe custodial environment for PLB if petitioner provides respondent with drug-treatment services. We agree with the trial court that such a drastic change was unlikely.

Respondent admits that she abused her prescriptions and blames that abuse for her parental shortcomings. Respondent, however, did not reveal that she had a drug problem until after the petition to terminate her parental rights, at which point petitioner had no responsibility to provide her with services. *In re Moss*, 301 Mich App 76, 91; 836 NW2d 182 (2013). Notably, petitioner has been involved in respondent's life since 2003. For 14 years, respondent hid her drug problem from petitioner. Four criminal convictions, two delinquency cases, and the sexual assault of her daughter did not spur respondent to seek help. Respondent's children were removed from her care for nearly two years. Still, she did not seek assistance with her drug problem. Rather, she harbored her drug issue, requesting help only when her parental rights were near termination. While respondent does claim to have remedied her addiction in the few months preceding the termination trial, we cannot ignore the many years respondent concealed this issue to the detriment of her children. *In re Utrera*, 281 Mich App 1, 25; 761 NW2d 253

¹ MCL 712A.19b(3)(g) has since been amended, effective June 12, 2018. Termination is now appropriate under this subsection when the "parent, *although, in the court's discretion, financially able to do so*, 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." MCL 712A.19b(3)(g) as amended by 2018 PA 58 (emphasis added).

(2008) (“Any rational evaluation of the evidence must take into account respondent’s lengthy history of instability as relevant to her current capacity to provide proper care for the child.”).

This is particularly true because petitioner has already provided respondent with substantial services. Respondent successfully completed her treatment plan and her children were returned to her. Yet, respondent quickly fell into her old habits, inconsistently attending to her children’s medical and mental-health needs and actively contributing to their delinquency. Respondent would engage in services when her parental rights were threatened, but was unlikely to make any lasting, substantive changes. Thus, the record confirms that, even with petitioner’s assistance, respondent was unlikely to be in a position to provide a proper custodial environment for PLB within the reasonable future. The trial court did not clearly err by concluding that statutory grounds for termination existed under MCL 712A.19b(3)(g) and (j).

With regard to the trial court’s best-interest determination, respondent argues that termination was not in PLB’s best interests because a bond existed between respondent and PLB and respondent was addressing her drug problem to become a better parent. We have already concluded, however, that respondent was unlikely to address her drug issue or other parental deficiencies within any reasonable time. Although it does appear that PLB was bonded to respondent, respondent was unlikely to provide the safe, nurturing custodial environment that PLB needed. PLB was sexually assaulted in respondent’s care and requires significant services to address her needs. Respondent did not consistently participate in PLB’s care, actively contributed to the delinquency of PLB’s sister, and endangered her children by driving under the influence. Despite their bond, termination was in PLB’s best interests.

Affirmed.

/s/ Anica Letica
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter