STATE OF MICHIGAN

COURT OF APPEALS

In re J. A. ADAMS, Minor.

UNPUBLISHED
December 26, 2019

No. 349506
Oceana Circuit Court
Family Division
LC No. 17-012624-NA

Before: METER, P.J., and O'BRIEN and TUKEL, JJ.

PER CURIAM.

In this termination of parental rights case, respondent-mother appeals as of right the court's order terminating her rights to the minor child, JA, pursuant to MCL 712A.19b(3)(c)(*i*) (adjudication conditions continue to exist) and (j) (reasonable likelihood that child will be harmed if returned to parent). For the reasons provided below, we affirm.

I. BASIC FACTS

This case arose after allegations were received by Child Protective Services ("CPS") in October 2017 that respondent was sexually abusing her then 10-year-old minor child, JA, who had been diagnosed with autism, cognitive and emotional impairment, and attention deficit hyperactivity disorder. Thereafter, in November 2017, CPS conducted an in-home forensic interview of JA during which JA made statements that respondent sexually abused him. Pending further investigation, CPS developed a safety plan that precluded respondent from being alone with JA. Respondent violated this plan within hours of CPS's departure from her home. Following removal from the home, JA repeatedly told those caring for him that respondent had sexually abused him. Respondent previously voluntarily released her parental rights to another child based on sexual abuse allegations similar to those in the current case. The trial court found that statutory grounds for termination under MCL 712A.19b(3)(c)(*i*) and (j) had been proven by clear and convincing evidence and that termination was in the best interests of the child.

II. STATUTORY GROUNDS

Respondent argues that the trial court erred by finding statutory grounds to terminate her parental rights under MCL 712A.19b(3)(c)(*i*) and (j). We disagree.

This Court "reviews for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination." *In re White*, 303 Mich App 701, 709-710; 846 NW2d 61 (2014). To be clearly erroneous, a trial court's determination must be more than possibly or probably incorrect. *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *Id*. In reviewing the trial court's determination, this Court must give due regard to the unique "opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *Id*., citing MCR 2.613(C).

"Only one statutory ground need be established by clear and convincing evidence to terminate a respondent's parental rights, even if the court erroneously found sufficient evidence under other statutory grounds." *In re Ellis*, 294 Mich App at 33. The trial court found two statutory grounds to terminate respondents' parental rights, MCL 712A.19b(3)(c)(*i*) and (j), by clear and convincing evidence. In relevant part, MCL 712A.19b(3) currently authorizes a trial court to terminate parental rights if it finds by clear and convincing evidence that any of the following exists:

> (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.
> >
> > * * *
>
> (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 statutory basis to terminate parental rights under MCL 712A.19b(3)(c)(*i*) exists "when the conditions that brought the children into foster care continue to exist despite time to make changes and the opportunity to take advantage of a variety of services . . . ." *In re White*, 303 Mich App at 710 (alteration in original; citation and quotation marks omitted). The conditions that led to the adjudication were allegations of sexual abuse against JA. Respondent admitted that she voluntarily released her parental rights to another child years before under similar circumstances.[1] Respondent continues to have the same issues. In both instances,

[1] To be clear, the fact that respondent previously had her parental rights to another child terminated is not per se evidence that termination is now proper under MCL 712A.19b(3)(c)(*i*) or (j). However, while the doctrine of anticipatory neglect, standing alone, is not necessarily a proper basis for termination, the circumstances surrounding a prior termination can constitute evidence that the trial court may properly consider as part of a parent's entire history when attempting to predict how the parent might treat another child. See *In re JL*, 483 Mich 300, 331-

respondent did not accept any responsibility for her actions and denied wrongdoing with either child. The trial court specifically noted that while respondent went through the motions of attending services offered to her, she failed to benefit from the services provided and continued to state that she did not believe she needed them. Respondent also stated that she did not understand why she was being told to participate in the services offered to her. Additionally, throughout the investigation, JA demonstrated sexually charged inappropriate behavior towards respondent that the trial court found was learned from respondent in light of the fact that while 11-years-old, he functions at an 8-year-old level. When confronted about the situation, respondent would become agitated and try to justify the behavior. Respondent's behavior and interactions with JA did improve after she began participating in services, but JA continued to act inappropriately towards respondent despite her insistence that he refrain from excessively touching and kissing her. Nevertheless, the trial court specifically noted that barriers to reunification—inadequate parenting skills, sexual abuse, and emotional stability—continued to exist and there was no reasonable expectation that these issues would be rectified within a reasonable time, taking into consideration the child's age. We are not definitely and firmly convinced that the trial court erred by making this finding. Thus, the trial court did not clearly err when it found that statutory grounds existed to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(*i*). Because we have concluded that at least one statutory ground has been proven by clear and convincing evidence, we need not consider whether the other statutory ground relied on by the trial court, MCL 712A.19b(3)(j), also has been proven by clear and convincing evidence. See *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009).

III. BEST INTERESTS

Respondent argues that termination of her parental rights was not in the child's best interests. We disagree.

"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." *In re Olive/Metts Minors*, 297 Mich App 35, 40-41; 823 NW2d 144 (2012). "[W]hether termination of parental rights is in the best interests of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court's ruling regarding best interests are reviewed for clear error. *In re Schadler*, 315 Mich App 406, 408; 890 NW2d 676 (2016). Furthermore, "[t]his Court gives effect to the Legislature's intent as expressed in the statute's terms, giving the words of the statute their plain and ordinary meaning. When the language poses no ambiguity, this Court need not look beyond the statute or construe the statute, but need only enforce the statute as written." *In re LE*, 278 Mich App 1, 22; 747 NW2d 883 (2008) (citations and quotation marks omitted).

334; 770 NW2d 853 (2009); *cf. In re LaFrance*, 306 Mich App 713, 730-732; 858 NW2d 143 (2014). This is especially the case if a parent's history, including the circumstances surrounding a prior termination, clearly shows a pattern of behavior that has not meaningfully changed. Such is the case here.

Respondent raised but then failed to develop her claim that the trial court erred in finding that it was in JA's best interests to terminate her parental rights. "An appellant may not merely announce a position then leave it to this Court to discover and rationalize the basis for the appellant's claims; nor may an appellant give an issue only cursory treatment with little or no citation of authority." *Cheesman v Williams*, 311 Mich App 147, 161; 874 NW2d 385 (2015). Furthermore, "failure to properly address the merits of an assertion of error constitutes abandonment of the issue." *Woods v SLG Property Management, LLC*, 277 Mich App 622, 627; 750 NW2d 228 (2008). Respondent correctly stated in her brief on appeal that a trial court must terminate a respondent's parental rights under MCL 712A.19b(5) if it finds termination is in the child's best interests. But respondent failed to make any argument or cite any legal authority to show that the trial court erred by finding that termination of respondent's parental rights was in JA's best interests. Thus, respondent's best-interests argument is abandoned.

Affirmed.

/s/ Patrick M. Meter
/s/ Colleen A. O'Brien
/s/ Jonathan Tukel