

STATE OF MICHIGAN
COURT OF APPEALS

In re CD, MD, and AD, Minors.

UNPUBLISHED
December 12, 2019

No. 349670
Jackson Circuit Court
Family Division
LC No. 10-001161-NA

Before: SWARTZLE, P.J., and MARKEY and REDFORD, JJ.

PER CURIAM.

Respondent-father appeals as of right the trial court's order terminating his parental rights to the minor children, CD, MD, and AD, under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist); (g) (failure to provide proper care or custody); and (j) (reasonable likelihood of harm if returned to the parent). We affirm.

I. BACKGROUND

Respondent and the minor children lived with respondent's father. In 2017, Children's Protective Services received a complaint that respondent's father showed CD his genitals and asked her to touch them. In light of these allegations, respondent agreed to find the children another place to live, away from his father. Respondent told the Department of Health and Human Services (DHHS) that he and the children were living with the children's uncle, but the DHHS discovered that respondent and the minor children continued to live with respondent's father. Furthermore, during a supervised phone call, respondent told CD that he did not believe her allegation regarding the sexual assault.

In 2018, the DHHS filed a petition to begin child-protective proceedings. In the petition, the DHHS alleged, among other things, that it was contrary to the children's welfare to remain in respondent's home with CD's alleged abuser. The trial court acquired jurisdiction over the children because respondent pleaded no contest to the allegations in the petition, and the trial court accepted the plea. The trial court then entered an order requiring respondent to obtain and maintain suitable housing, complete a psychological examination and follow all recommendations flowing from that examination, attend parenting classes, and attend visitations with his children.

Respondent, however, failed to comply with these requirements. Respondent attended only one parenting class in the time between adjudication and termination. He claimed to have transportation issues that prevented him from attending any other classes. The DHHS stopped taking respondent's children to respondent's home for visitation after a few visits because respondent became verbally aggressive with a DHHS employee during one of the visits. Respondent's subsequent attendance at supervised-parenting sessions was intermittent, and he had only seven visits with his children after December 2018.

Eventually, DHHS filed a supplemental petition to terminate both parents' parental rights. The trial court terminated respondent's parental rights under MCL 712A.19b(3)(c)(i), (g) and (j). This appeal followed. Although the trial court also terminated the mother's parental rights, she is not a party to this appeal.

II. ANALYSIS

A. STANDARD OF REVIEW

"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). If the trial court finds that there are grounds for termination of parental rights and that termination is in the children's best interests, then the trial court must terminate the parental rights. MCL 712A.19b(5). This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established. *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (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.*

B. STATUTORY GROUNDS

Respondent argues that the trial court clearly erred by finding statutory grounds for termination of his parental rights. Because respondent risked exposing his children to the person accused of sexually abusing CD, and because he failed to comply with the terms and conditions of his service plan, the trial court did not clearly err in concluding that the children would be harmed if returned to respondent's care.

The trial court may terminate a parent's parental rights if one or more of the statutory grounds outlined in MCL 712A.19b(3) are proven by clear and convincing evidence. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). Only one statutory ground for termination must be proven to support termination of parental rights. *In re Gonzales/Martinez*, 310 Mich App 426, 431; 871 NW2d 868 (2015).

The trial court found that grounds for terminating respondent's parental rights existed under MCL 712A.19b(3)(j), which authorizes termination of parental rights under the following circumstances:

- (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:

* * *

(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.

With respect to § 19b(3)(j), either physical or emotional harm is sufficient to support termination. *In re Hudson*, 294 Mich App at 268.

Respondent argues that the trial court erred by finding this statutory ground because the record was devoid of any information that respondent had ever harmed any of his children. As noted, however, respondent continued throughout these proceedings to deny CD's allegations of sexual abuse at the hands of her grandfather, and he did not remove his family from his father's home even after assuring DHHS that he had done so. The risk of exposure to an exploitative individual, such as a sexual predator, may support a finding that a reasonable likelihood of harm exists. See *In re White*, 303 Mich App 701, 712-713; 846 NW2d 61 (2014). Furthermore, DHHS stopped taking the children to visit respondent because of his aggressive behavior, and the caseworker noted that the children exhibited the same explosive behavior that she had experienced with respondent. Evidence of difficulty controlling aggression supports a determination that a reasonable likelihood of harm exists. *Gonzales/Martinez*, 310 Mich App at 433-434.

Furthermore, respondent failed to comply with the terms and conditions of his service plan. Respondent completed only one parenting class between adjudication and termination, and he attended only seven visits with his children after December 2018. A parent's failure to comply with the terms and conditions of his service plan is evidence that the child will be harmed if returned to the parent's home. *In re White*, 303 Mich App at 711-713. We are not left with a definite and firm conviction that the trial court erred by terminating respondent's parental rights under MCL 712A.19b(3)(j).

A trial court need only find clear and convincing evidence of one statutory ground for termination of parental rights. *In re VanDalen*, 293 Mich App at 139. Therefore, we need not address the additional statutory grounds for termination considered by the trial court. Moreover, respondent does not challenge the trial court's findings regarding best interests, and therefore we will not address the issue.

Affirmed.

/s/ Brock A. Swartzle
/s/ Jane E. Markey
/s/ James Robert Redford