

STATE OF MICHIGAN
COURT OF APPEALS

In re PAQUETTE, Minors.

UNPUBLISHED
December 17, 2020

No. 352235
Wayne Circuit Court
Family Division
LC No. 17-001732-NA

Before: SWARTZLE, P.J., and BECKERING and GLEICHER, JJ.

PER CURIAM.

The circuit court terminated respondent-mother’s parental rights to her two children, CMP and AMP, based on her physical abuse of CMP and failure to adequately benefit from mental health services to control her bipolar and borderline personality disorders. CMP turned 18 two days after the court entered its order and respondent appeals only the termination of her rights to AMP. The court properly found several statutory grounds supporting termination and determined that termination was in AMP’s best interests. We affirm.

I. BACKGROUND

Respondent gave birth to CMP in 2001, and AMP in 2010. In 2013, Child Protective Services (CPS) investigated a claim that respondent had threatened and mistreated the children. In 2014, CPS again investigated respondent’s home when CMP took her medical marijuana to school and shared it with friends. In 2016, CPS received a report of physical abuse in respondent’s home and actually provided services to remedy that problem.

CMP described that respondent began physically abusing him after AMP’s father died in 2013. The abuse increased in 2014 after CMP took respondent’s medical marijuana to school. On September 24, 2017, respondent became angry with then 15-year-old CMP. She cornered him in the kitchen where she hit him in the face with her hands, hit him with a belt, beat him with a broken bamboo tiki torch, kicked him, and bit him in the arm, breaking the skin. Respondent ordered AMP to bring her a knife. She then stabbed CMP in the arm. Respondent forced CMP to stay home from school for two days to hide his injuries. Upon his return, school officials questioned CMP about his injuries. CMP initially told his school counselor that he got into a fight with another student, because he was afraid that if he was removed from the home, respondent would abuse AMP instead. CMP later relented and identified his mother as his assailant.

CPS removed the children from respondent's home on September 28, 2017, and placed them with relatives. Respondent pleaded nolo contendere to grounds for jurisdiction and termination. In February 2018, the court determined that termination was not in the children's best interests. The court ordered the Department of Health and Human Services (DHHS) to provide services to reunify respondent with AMP. The goal was to provide an alternate planned permanent living arrangement for CMP.

Respondent maintained employment and suitable housing throughout the proceedings. She remained substance free. She participated in specialized one-on-one parenting classes to learn to better parent AMP, who is autistic. And respondent faithfully attended supervised parenting-time sessions with AMP, during which mother and son received family therapy.

Around September 2018, respondent had several incidents of erratic behavior while interacting with the caseworker and various service providers. For example, respondent commented to one provider that she wanted to kill her family. Respondent also had an outburst during a supervised visit that required police intervention and caused AMP to bang his head in frustration. As a result, respondent was referred for a psychiatric evaluation, and was diagnosed with bipolar and borderline personality disorder. Respondent began taking psychotropic medications to assist in regulating her mood. But respondent did not take her medication consistently and told no one when she stopped. The caseworker noticed a change in respondent's behavior and appearance during respondent's break from her medication. Moreover, in January 2019, AMP started acting out at school in the days leading up to and following his visits with respondent.

In the summer of 2019, the DHHS filed a supplemental petition and an amended supplemental petition seeking termination of respondent's parental rights. In addition to noting respondent's inconsistent compliance with her mental health treatment plan, the petition described that respondent was convicted of third-degree child abuse in July 2018 for her September 2017 attack of CMP. Following a termination hearing, the court found termination supported by several statutory grounds and determined that although the children were placed with family, termination was in their best interests. Two days after the termination order entered, CMP reached the age of majority. Respondent now appeals the termination of her parental rights to AMP.

II. STATUTORY GROUNDS

Pursuant to MCL 712A.19b(3), a circuit court "may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence" that at least one statutory ground has been proven by the DHHS. MCR 3.977(A)(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). The court's termination decision followed the filing of an amended supplemental petition. When termination is sought in a supplemental petition based on new grounds, the DHHS must present legally admissible evidence in support. *In re DMK*, 289 Mich App 246, 258; 796 NW2d 129 (2010). We review for clear error a circuit court's factual finding that a statutory termination ground has been established. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "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 Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013) (cleaned up).¹ “Clear error signifies a decision that strikes us as more than just maybe or probably wrong.” *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009).

The circuit court terminated respondent’s parental rights pursuant to MCL 712A.19b(3)(b)(i), (c)(i), (c)(ii), (g), (j), and (k)(iii), which provide:

(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:

* * *

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent’s act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent’s home.

* * *

(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.

(ii) Other conditions exist that cause the child to come within the court’s jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child’s age.

* * *

(g) 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

¹ This opinion uses the parenthetical (cleaned up) to improve readability without altering the substance of the quotation. The parenthetical indicates that nonsubstantive clutter such as brackets, alterations, internal quotation marks, and unimportant citations have been omitted from the quotation. See Metzler, *Cleaning Up Quotations*, 18 J App Pract & Process 143 (2017).

that the parent will be able to provide proper care and custody 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.

(k) The parent abused the child or a sibling of the child, the abuse included 1 or more of the following, and there is a reasonable likelihood that the child will be harmed if returned to the care of the parent:

* * *

(iii) Battering, torture, or other severe physical abuse.

Underlying her challenge to all the statutory grounds, respondent contends that termination of her parental rights to AMP was not supportable because she never abused or harmed AMP and there was no evidence that she would do so in the future. However, respondent ignores that her mood swings and volatile behavior have harmed AMP. Further, respondent's reluctance to remain on her medication places AMP at risk of future harm.

During these proceedings, respondent was diagnosed with bipolar and borderline personality disorder. She participated in weekly individual therapy, and her therapist noted an improvement in her decision-making and emotional regulation skills. The family therapist who assisted in supervised parenting time also noted that respondent became less volatile and more open to advice over time. However, respondent stopped taking her prescribed medication because of weight gain, hair loss, and difficulty sleeping. She did not tell the caseworker or her service providers. Before her medications were prescribed, respondent had difficulty controlling her mood and behavior. Unmedicated, respondent became hostile and volatile during her parenting-time sessions. On one occasion, the police were called. And the caseworker noted a negative change when respondent again stopped taking her medication.

AMP suffered trauma and psychological harm as a result of his mother's behavior. AMP has been diagnosed with autism as well as post-traumatic stress disorder (PTSD). AMP is prone to banging his head against the wall and hitting himself when he is upset. AMP requires a caregiver that can calm him to prevent him from harming himself. Respondent's volatile mood swings have the opposite effect.

At a minimum, this evidence supports termination under MCL 712A.19b(3)(c)(ii). Respondent's mental health diagnosis came to light during these proceedings and the court ordered services to rectify that condition. Respondent initially participated in those services and showed benefit but then stopped taking her medication and told no one. Given respondent's behavior, it is likely that she would stop taking her medication again in the future against the advice of her healthcare providers. And as established by the record evidence, respondent's volatile moods while off her medication impair her ability to properly care for AMP and his special needs.

Respondent's inability to provide a calming home environment for AMP also supports termination under factors (g) and (j). Although respondent has never physically abused AMP, her behavior while off her medication has caused AMP to physically harm himself. AMP also suffers from PTSD as a result of respondent's behavior and possible awareness that respondent physically abused his brother. Respondent has not rectified these conditions; she voluntarily stopped taking her medication and denied AMP's PTSD diagnosis. As a result, respondent cannot provide proper care and custody for AMP and there is a reasonable likelihood that AMP would suffer additional harm if returned to respondent's care.

A circuit court need only find one statutory ground to support termination of parental rights. The court in this matter properly relied on at least three statutory grounds to determine that AMP could not be safely returned to respondent's care. Accordingly, respondent is not entitled to relief in this regard.

III. BEST INTERESTS

"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*, 297 Mich App 35, 40; 823 NW2d 144 (2012), citing MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *Moss*, 301 Mich App at 90. The court should weigh all the evidence available to it in determining the child's best interests. *Trejo*, 462 Mich at 356-357. We review the court's factual findings in this regard for clear error. *In re Brown/Kindle/Muhammad Minors*, 305 Mich App 623, 637; 853 NW2d 459 (2014).

Factors relevant to the best-interest determination include "the child's bond to the parent, the parent's parenting ability, [and] the child's need for permanency, stability, and finality," as well as the advantages of the foster home over the child's home with the parent. *Olive/Metts*, 297 Mich App at 41-42 (cleaned up). "The trial court may also consider a parent's history of domestic violence, . . . the children's well-being while in care, and the possibility of adoption." *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014). The court must also explicitly recognize when a child is placed with relatives, a factor that generally weighs against termination. *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). Ultimately, "the focus at the best-interest stage [is] on the child, not the parent." *Moss*, 301 Mich App at 87.

Respondent shared a bond with AMP and faithfully attended visits. She maintained employment and stable housing, and did not use illegal substances during the child protective proceedings. However, respondent had a lengthy history of physical violence against her older son that had led to CPS intervention. Despite receiving services, respondent continued to abuse AMP, leading to the emergency removal of her children. During these proceedings, respondent was finally diagnosed with bipolar and borderline personality disorder and began receiving treatment and medication that could help control her mood swings and help her safely parent AMP, a child prone to self-harm. But respondent chose to stop taking her medication and hid that fact from her caseworker and service providers. Respondent's decision demonstrates an inability to provide a stable, safe home for her special-needs child.

AMP has a stable home with his maternal aunt. His aunt ensures that AMP receives a variety of services to address his needs. AMP required assurance that his home with his aunt was stable and permanent given his special circumstances. Accordingly, we discern no error in the court's determination that termination of respondent's parental rights to AMP was in the child's best interests despite that he is placed with a relative.

We affirm.

/s/ Brock A. Swartzle
/s/ Jane M. Beckering
/s/ Elizabeth L. Gleicher