

STATE OF MICHIGAN
COURT OF APPEALS

In re ELGIE, Minors.

UNPUBLISHED
November 24, 2020

No. 352755
Newaygo Circuit Court
Family Division
LC No. 19-009264-NA

Before: SAWYER, P.J., and M. J. KELLY and SWARTZLE, JJ.

PER CURIAM.

Respondent-mother appeals as of right from the trial court's order terminating her parental rights to the minor children. On appeal, mother argues that termination of her parental rights was not in the minor children's best interests. We disagree and affirm.

The trial court record reflects that the minor children, as well as an older sister, made mother aware that the children's father (and step-father, respectively) had sexually abused them over a period of years. Over a nine-month period, mother failed to take any action to verify or investigate the veracity of these allegations. At trial, all three daughters testified in detail about father's sexual predation. Mother chose not to testify, as did father. In a written opinion, the trial court concluded that there was clear and convincing evidence to support terminating mother's parental rights under MCL 712A.19b(3)(b)(ii) because there was ample evidence that mother was repeatedly advised that father was sexually abusing the minor children yet failed to take the necessary action to investigate or verify the allegations or protect her children. The trial court also concluded under MCL 712A.19b(3)(j) that there was a reasonable likelihood that the children would be harmed if returned to mother's care. The trial court similarly found that termination of mother's parental rights was in the children's best interests because they needed permanency and a proper environment with consistent care and safe parenting. The trial court cited the nine-month period during which mother did nothing to protect or provide for the well-being of the children, leaving the children hopeless, scared, and fending for themselves and their siblings. The trial court also cited how neither child wanted to be returned home and how mother remained married to and living with father. Comparatively, the children's needs were being met in relative placement. On this factual basis, the trial court terminated mother's parental rights.

Mother concedes that statutory grounds existed for termination. Instead, she argues only that termination was not in her children's best interests. Because mother does not challenge the trial court's determination that petitioner properly established statutory grounds for termination, we may assume that the trial court did not clearly err in finding that the statutory grounds existed. *In re JS and SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998), overruled in part on other grounds by *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). Nevertheless, we have reviewed the record, and find no clear error regarding the statutory grounds for termination. See *In re Olive/Metts, Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

We are also satisfied that termination of mother's parental rights was in the children's best interests. MCL 712A.19b(5). The trial court was required to find by a preponderance of the evidence that termination of parental rights was in the minor children's best interests. *In re Olive/Metts Minors*, 297 Mich App at 40. "In making its best-interest determination, the trial court may consider the whole record, including evidence introduced by any party." *In re Medina*, 317 Mich App 219, 237; 894 NW2d 653 (2016) (quotation marks and citation omitted).

"[T]he child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home," are all factors for the court to consider when deciding whether termination is in the best interests of the child. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). A child's placement with relatives is a factor that the trial court is required to consider. *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). See MCL 712A.19a(6)(a). Generally, "a child's placement with relatives weighs against termination . . ." *In re Olive/Metts Minors*, 297 Mich App [at 43] (quotation marks and citation omitted). [*In re Gonzalez/Martinez*, 310 Mich App 426, 434; 871 NW2d 868 (2015).]

"The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption." *In re White*, 303 Mich App at 714.

Mother primarily argues that DHHS should have provided services to help her achieve reunification. This argument lacks merit. "MCL 722.638(1)(a)(ii) mandates that [DHHS] seek termination of parental rights when the parents are suspected of perpetuating sexual abuse upon the minor children or their siblings and when a parent fails to intervene to eliminate that risk." *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009). When seeking termination of parental rights, DHHS is not required to provide any reunification services. *Id.* In any event, the thrust of this argument relates more to the statutory grounds supporting termination, which mother has conceded. Under the best-interest framework, our focus is properly limited to the best interests of the minor children. See *In re COH, ERH, JRG, & KBG*, 495 Mich 184, 207; 848 NW2d 107 (2014).

We conclude that the record supports the trial court's determination. We agree that the children deserved an environment of consistent care and safe parenting, which it appeared that mother was either unable or unwilling to provide. The children were doing well in placement with a relative, a situation that provided necessary stability and permanence. Despite everything, mother remained married to father and living with him in her household. Cf. *In re Archer*, 277

Mich App 71, 75; 744 NW2d 1 (2007) (concluding that evidence that a parent continues to associate with individuals who may pose a risk of sexual or physical abuse to a child supports termination of parental rights). Nothing suggested that mother ever took any steps to demonstrate that she believed her daughters were telling the truth or that she would look out for their welfare. On appeal, mother now half-heartedly asserts that she would have supported “removing her husband from the house to guarantee her daughters’ safety.” However, given mother’s history of shielding father and failing to protect her daughters when they needed her most, we find this eleventh-hour promise of change unavailing. Moreover, mother continues to assert even on appeal that she still “hesitate[s] to believe her daughters about her husband’s alleged sexual predation.” We agree with the trial court that it would not be in the children’s best interests to remain in that environment. Notably, the evidence also suggested that the children did not wish to live with their mother and that they were afraid of the possibility of being subjected to further harm. Under such circumstances, the trial court did not clearly err in holding that termination of mother’s parental rights was in their best interests. See *In re Brown/Kindle/Muhammad, Minors*, 305 Mich App 623, 638; 853 NW2d 459 (2014) (holding that termination of parental rights was in a child’s best interests because the parent “allowed the children to be sexually abused” and “lacked the ability to keep her children safe or effectively parent them”).

Affirmed.

/s/ David H. Sawyer
/s/ Michael J. Kelly
/s/ Brock A. Swartzle