

STATE OF MICHIGAN
COURT OF APPEALS

In re GUSTAFSON/PAQUETTE, Minors.

UNPUBLISHED
February 18, 2021

No. 352670
Marquette Circuit Court
Family Division
LC No. 18-010382-NA

Before: BECKERING, P.J., and SAWYER and SHAPIRO, JJ.

PER CURIAM.

Respondent-mother appeals the trial court’s order terminating her parental rights to her two minor children, LG and MP, under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist) and (g) (failure to provide proper care or custody and no reasonable expectation of being able to do so in a reasonable time). We affirm.

I. BACKGROUND

This case began with reports of physical abuse against MP. On April 20, 2018, respondent left MP, then six months old, in the care of a man who was a known substance abuser. When the police arrived at respondent’s home on April 21, 2018, they found MP severely bruised and a needle in the trash can. MP was taken to the hospital where a medical exam showed that she suffered soft-tissue damage and bruising on her ribcage, face, head, leg and arm. Respondent initially refused a drug screen but then two days later tested positive for methamphetamine, amphetamine, and gabapentin. The trial court then authorized a removal petition and MP and LG, then four years old, were placed with their respective fathers, who were nonrespondents. LG’s father executed a power of attorney that allowed the paternal grandparents to care for LG, which they did throughout the proceedings.

In June 2018, respondent pleaded no contest to an amended petition. She was ordered to participate in two drugs screens per week and supervised parenting time three times per week. She was also to complete mental health and substance abuse assessments and follow the recommendations. After the first review hearing, respondent was ordered to participate in Early On and infant mental health services. However, she made little to no effort to engage in these services. She participated in only 17 of 87 attempted drug screens. Of the 17 screens she participated in, she tested positive 15 times, with multiple positive screens for methamphetamine,

amphetamine and cocaine. Respondent attended only 23 of 108 possible parenting-time visits. She did not complete a substance abuse or mental health assessment, nor did she participate in Early On services with MP or other services offered aimed at improving her parenting. Respondent had a job at one point but was fired and then evicted from her apartment. In November 2018, she was arrested for and charged with larceny from a person.

A permanency planning hearing was held in March 2019. Respondent was not present and her exact whereabouts were unknown. The caseworker informed the court that respondent had failed to report to jail to begin her sentence for larceny from a person. The trial court directed the department to file a termination petition. Respondent began her incarceration in May 2019. Her anticipated release date was in December 2019.

The termination hearing was held in October 2019. The prosecutor called the two caseworkers as witnesses. The primary caseworker, Kristie Carpenter, testified that she met with respondent at the beginning of the case to discuss what she needed to do to get her children back. Carpenter said that plans were put in place but respondent failed to follow through. The lawyer-guardian ad litem called LG's grandfather as a witness. Respondent did not testify.

In November 2019, the court issued an order finding clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i) and (g) given respondent's failure to make any progress toward reunification. The court then determined that, despite relative placement, termination of respondent's parental rights was in each child's best interests.

II. ANALYSIS

On appeal, respondent challenges only the trial court's best-interests determinations.¹ The focus of the best-interests inquiry is on the child rather than the parent. *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013). The trial court may consider such factors as "the 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." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). A trial court must analyze each child's best interests separately. *Id.* at 42.

Respondent argues that the trial court failed to adequately consider the principle that "a child's placement with relatives weighs against termination" *Id.* at 43 (quotation marks and citation omitted). However, the record demonstrates that the trial court expressly took this factor into consideration, but nonetheless determined that termination of respondent's parental rights was in each child's best interests. We see no clear error. Regarding LG, the trial court noted the

¹ We review the trial court's decision regarding the child's best interests for clear error. *In re Utrera*, 281 Mich App 1, 15; 761 NW2d 253 (2008). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). The petitioner must prove by a preponderance of the evidence that termination of parental rights is in the child's best interests. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013).

testimony concerning respondent's continued inconsistency in attending parenting time and the emotional and behavioral consequences for the child. It also noted that sometimes LG would refuse to participate in parenting time and that she rarely asked for her mother. LG's grandfather testified that he was unsure whether termination of respondent's parental rights "would be the best thing for [LG] right now." But the court reasoned that the grandfather's statement was based on a hope that respondent could turn her life around, but that there was no evidence to support that hope. The trial court concluded that what was most important was ensuring that LG would be in a permanent long-term home, something her grandparents had been providing for over a year, and which respondent had been unable to provide.

As for MP, the trial court again noted that her placement with her father weighed against termination of respondent's rights. However, respondent had not seen MP in over a year.² Further, MP's father made clear to the caseworkers that he did not want MP to have a relationship with respondent. The trial court concluded that MP, now two years old, needed stability and that would be best served by continuing her current placement and terminating respondent's parental rights. MP's father had been providing her a stable home for over a year. Respondent, on the hand, could not provide a stable home because of substance-abuse issues, unemployment, and homelessness.

In sum, as to each child, the trial court recognized that relative placement weighed against termination but identified adequate reasons why termination was nonetheless warranted. Given the children's need for stability and the lack of any indication that respondent would be able to provide stability, the trial court's best-interests determinations were not clearly erroneous.

Respondent also argues that the trial court should have considered custody orders instead of termination. The trial court repeatedly encouraged the parties to pursue this avenue throughout the case. Ultimately, however, MP's father did not want respondent in MP's life, and LG's grandparents were not ready to enter into a guardianship over LG. Accordingly, the department pursued termination, and for the reasons discussed, the trial court did not clearly err by terminating respondent's parental rights.

Affirmed.

/s/ Jane M. Beckering

/s/ David H. Sawyer

/s/ Douglas B. Shapiro

² Some of the missed visits with MP were not respondent's fault. MP was sick for one visit, and on two other occasions MP's father refused to bring her to visits. MP's father's attitude toward visitation shifted when respondent became inconsistent about attending.