

STATE OF MICHIGAN
COURT OF APPEALS

In re IB, HB, JH, JKH, and JMH, Minors.

UNPUBLISHED
August 26, 2021

No. 355885
Ingham Circuit Court
Family Division
LC No. 18-000108-NA;
18-000109-NA;
18-000110-NA;
18-000111-NA;
19-001040-NA

Before: STEPHENS, P.J., and BORRELLO and GLEICHER, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to five of her minor children¹ pursuant to MCL 712A.19b(3)(b)(ii) (failure to protect child from physical or sexual abuse), (b)(iii) (nonparent caused sexual abuse of a sibling), (c)(ii) (failure to rectify other conditions), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if returned to parent).² We affirm.

I. FACTUAL BACKGROUND

On January 25, 2018, the Michigan Department of Health and Human Services (DHHS) filed a petition to remove respondent’s minor children for neglect on the basis of allegations of chronic lice, bedbugs, filth in the home, and extremely poor school attendance for some of the

¹ Respondent has five other children—three adults and two minor children—who were not part of the termination proceedings and are not part of this appeal. The parental rights of SB, the legal 2father of the children involved this appeal, were not terminated in the proceedings below, and he is not a party to this appeal. JH, the putative father of three of the children JH, JKH and JMH is also not a party to this appeal, nor was he a respondent in the underlying petitions.

² We do not identify them by their surnames in the caption or body of this opinion to protect their privacy.

children. SB and respondent were married both at the time of the petitions and when each of children were born and was therefore, the legal father. The initial petition for temporary wardship noted that SB was incarcerated pending charges for criminal sexual conduct against respondent's oldest three daughters. The children were removed from respondent's home on March 15, 2018, and were placed in nonrelative foster care or with their maternal grandmother. Respondent successfully completed several services, including therapy and parenting classes, and the children were returned to her care on October 3, 2018, and December 11, 2018, under the supervision of Intensive Neglect Services (INS). Respondent gave birth to a baby on September 30, 2018.

At the time of the proceedings, respondent had been living with JH, the purported biological father of respondent's three youngest children. On December 11, 2018, the circuit court ordered JH to have no contact with respondent or the children because of his criminal history, multiple warrants, and history of inappropriate behavior around the children. Despite the court order, on February 26, 2019, case workers found JH at respondent's home during a surprise visit. Respondent pleaded guilty to contempt of court for allowing JH in the home. In March 2019, Child Protective Services received several allegations that JH had sexually abused two of the children while in the home. Respondent denied the allegations, although the children later reported that respondent knew about the sexual abuse. On July 18, 2019, the circuit court authorized an emergency petition to remove the children from respondent's care in light of the allegations of sexual abuse, respondent's violation of the no-contact order, and respondent's noncompliance with court-ordered therapy. The children were placed in nonrelative foster care.

Respondent continued to participate in therapy services and parenting classes with DHHS and INS. In October 2019, respondent brought a man with her to parenting time that none of the children knew. Respondent identified the man as "Echo". DHHS later discovered that "Echo" was actually TS, a registered sex offender from North Carolina, and that respondent had allowed him into her home and around the children. After being made aware of TS's sex offender status respondent continued her relationship with him and delivered his child on June 11, 2020 under a fake name. Respondent attempted to conceal her pregnancy, telling the DHHS worker and her children that she had a cervical tumor that was causing her stomach to grow. Respondent also told her oldest child that the baby had died.

DHHS filed a petition to terminate respondent's parental rights on August 11, 2020. There was evidence introduced regarding the respondent's assessments on tests administered to determine her ability to stay away from abusive relationships, take responsibility for her actions, and protect her children from dangerous individuals. Two of the psychologists testified that the respondent needed long-term commitment to services to overcome her lack of self-awareness and to overcome her failure to recognize and protect against risks to herself and her children. Respondent's therapist testified that while respondent had successfully reached all her therapy goals and seemed to have benefited from therapy, she had no confidence that respondent would implement the lessons she learned.

Respondent testified that she had learned from therapy and would be able to protect her children. However, respondent had not acknowledged that any of her partners were dangerous. Regarding SB, respondent testified that she did not initially know whether to believe the allegations of sexual abuse. Regarding JH, respondent testified that she believed the court entered a no-contact order because JH had warrants for outstanding child support, which she did not

consider dangerous. Regarding TS, respondent remained adamant that he was not a registered sex offender, and she testified that she did not see the harm in continuing to talk with him about their child.

The circuit court concluded that DHHS had established statutory bases for termination under MCL 712A.19b(3)(b)(ii), (b)(iii), (c)(ii), (g), and (j). The court found that respondent had failed to protect her children from sexual abuse and that the evidence showed a clear pattern of respondent's association with men who posed a threat of sexual abuse to her children. The court noted that although respondent had completed services and had rectified several conditions in the home, both the testimony and respondent's actions showed that she lacked the insight to understand the danger that her relationships posed to her children. Therefore, the court found that there was a likelihood that the children would experience similar abuse if returned to respondent's care. The court also found that termination was in the children's best interests. The court recognized that the children's bond with respondent and their placement in different foster homes weighed against termination, but found that the other factors weighed in favor of termination. The court found that respondent's deceptive actions demonstrated that she lacked substantial parenting abilities; that despite more than two years of services, she did not understand the risk that her relationships posed to her children; and that the children had been under the court's jurisdiction for nearly three years, had been in foster care a year and a half, and needed finality.

II. ANALYSIS

A. STATUTORY BASIS FOR TERMINATION

Respondent argues that the trial court erred by terminating her parental rights because the statutory grounds for termination were not supported by clear and convincing evidence. We disagree.

We review for clear error the trial court's determination that at least one statutory ground for termination is supported by clear and convincing evidence. *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "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 BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

"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 at 139. If this Court concludes that termination is supported by at least one statutory ground, additional grounds for the trial court's decision need not be considered. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).

Among other grounds, the trial court found grounds for termination of respondent's parental rights pursuant to MCL 712A.19b(3)(b)(ii), which provides that termination is appropriate when:

(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:

* * *

(ii) The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

Respondent argues that there was no reasonable likelihood that her children would suffer abuse in the foreseeable future if placed in her home because her relationships with SB, JH, and TS were over. We note that the record does not support her assertion that she ended the relationship with TS as of the hearing date. Additionally, the record reflects that while charges were pending against SB for assaulting her older girls, respondent continued her relationship with JH after being informed both of his sex offender history and the court's no contact order. She entered the relationship with TS not even knowing his name, and failed to acknowledge that he too was a sex offender with a history of predatory relationships with children. We cannot find error in the court's determination that there was clear and convincing evidence to support terminating respondent's parental rights pursuant to MCL 712A.19b(3)(b)(ii). Because termination of parental rights must be supported by only one statutory ground, we need not address the additional grounds for termination. *In re HRC*, 286 Mich App at 461.

B. BEST INTERESTS

Respondent also argues that the trial court erred by finding that termination was in the children's best interests. We disagree.

We review for clear error a trial court's decision that termination is in a child's best interests. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed" *In re BZ*, 264 Mich App at 296-297.

Termination of parental rights is appropriate when the trial court determines that one or more grounds for termination are supported by clear and convincing evidence and that termination is in the child's best interests. *In re LaFrance Minors*, 306 Mich App 713, 732-733; 858 NW2d 143 (2014). "Best interests are determined on the basis of the preponderance of the evidence." *Id.* at 733. When determining the best interests of the child, this Court focuses on the child, rather than the parent. *In re Schadler*, 315 Mich App 406, 411; 890 NW2d 676 (2016). A trial court should weigh all the evidence and consider a variety of factors, including:

[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. 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 701, 713-714; 846 NW2d 61 (2014) (quotation marks and citations omitted).]

In this case, respondent argues that the trial court erred by finding that termination was in the children's best interests because the children were strongly bonded with respondent and would not be able to stay together as a family if they were not in respondent's care. However, the trial court recognized that both factors were relevant and weighed against termination. Regardless, the trial court ultimately concluded that the weight of the other factors supported termination. We agree.

Respondent demonstrated that she lacked substantial parenting abilities, as evidenced by her failure to protect the children from multiple sex offenders, refusal to believe that TS was a registered sex offender, and lies regarding her pregnancy. Despite more than two years of therapy, respondent still had not understood the impact of her negative relationships on her children. The children had been under the court's jurisdiction for nearly three years, yet respondent had failed to benefit from services. Further, considering that respondent did not have insight regarding the danger of her associations with sexually abusive men, it was likely that the children would continue to be at risk of harm in her care, and therefore were likely to be returned to foster care if reunited with respondent. Given that so many factors weighed in favor of termination, the trial court did not err by finding that termination was in the children's best interests.

Affirmed.

/s/ Cynthia Diane Stephens

/s/ Stephen L. Borrello

/s/ Elizabeth L. Gleicher