STATE OF MICHIGAN

COURT OF APPEALS

In re HILL/ALEXANDER, Minors.

UNPUBLISHED
December 16, 2021

No. 357188
Berrien Circuit Court
Family Division
LC No. 2019-000093-NA

AFTER REMAND

Before: MURRAY, C.J., and JANSEN and RIORDAN, JJ.

PER CURIAM.

Respondent-father appealed as of right the trial court order terminating his parental rights to his four children, arguing that the trial court erred in determining that termination was in the best interests of two of his children without considering their relative placements. In an unpublished opinion, this Court vacated the termination order as to those two children only, MA and AA, and remanded this case to the trial court for further findings regarding their best interests. *In re Hill/Alexander*, unpublished opinion of the Court of Appeals, issued October 21, 2021 (Docket No. 357188), p 1. On remand, the trial court held a best-interests hearing and took additional proofs, and entered a new order terminating respondent-father's parental rights to MA and AA. We affirm.

We review a trial court's best-interests determination for clear error. *In re Medina*, 317 Mich App 219, 226; 894 NW2d 653 (2016). "A trial court's decision is clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Olive/Metts Minors*, 297 Mich App 35, 41; 823 NW2d 144 (2012) (quotation marks, citation, and alterations omitted).

In making a best-interests determination, the court may consider a wide array of factors, including the bond between child and parent, the parent's parenting ability, the child's need for permanency and stability, and the advantages of a foster home over the home of the parent. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). Other factors include the parent's history of domestic violence, compliance with a case-service plan, history of visitation, the child's well-

being while in care, and whether adoption is a possibility. *Id*. at 714. A child's placement with relatives weighs against termination. *In re Olive/Metts Minors*, 297 Mich App at 43.

> Although the trial court may terminate parental rights in lieu of placement with relatives if it finds that termination is in the child's best interests, the fact that the children are in the care of a relative at the time of the termination hearing is an explicit factor to consider in determining whether termination was in the children's best interests. A trial court's failure to explicitly address whether termination is appropriate in light of the children's placement with relatives renders the factual record inadequate to make a best-interest determination and requires reversal. [*Id*. at 43 (quotation marks and citations omitted).]

Because the trial court failed to address that MA and AA were placed with relatives at the initial termination hearing, a remand was necessary. *In re Hill/Alexander*, unpub op at 1. On remand, the trial court heard testimony from the Department of Health and Human Services (DHHS) foster care supervisor who testified at the original termination hearing, from respondent-father's brother, with whom AA was placed, and from the current foster care worker, who had just spoken to the relative placement of MA, the maternal grandparents. Each witness testified that the relative placements were interested in adopting AA and MA respectively, and were not interested in a guardianship because it could one day be dissolved, and the children needed permanency. The relative placements were concerned because respondent-father had a history of substance abuse that was potentially ongoing. Additionally, the DHHS workers believed that guardianships were not appropriate for children as young as AA and MA, ages two and six years old, because of the possibility of dissolution. AA was bonded to her relative placement, calling respondent-father's brother and his wife, "mom and dad." At two years old, AA's relative placement was the only home she knew. MA was bonded to her maternal grandparents as well as her half-sibling who was in the same relative placement. It would be difficult for MA to be separated from her half-sibling. MA expressed fear of respondent-father because she witnessed domestic violence between respondent-father and respondent-mother. Although both relative placements were willing to adopt the children, no adoption had yet taken place because termination proceedings regarding respondent-mother were pending.

In making its findings from the bench, the trial court noted that it should have addressed the relative placements of the two children at the original termination hearing; however, at the original hearing testimony was not taken from the relative placements, nor was it made known what their desires were in regards to adoption or a guardianship. The court noted that MA was placed with her maternal grandparents, and did not have a good relationship with respondent-father. Both MA and AA had been in their relative placements for a long time, and respondent-father's brother testified that he did not want any contact with respondent-father given concerns about his lifestyle. The court determined that the children needed permanence, which a guardianship would not provide. The court did not find any merit to the argument raised by counsel for respondent-father that termination of parental rights would disinherit the children. The trial court reiterated its initial findings that respondent-father's lack of progress made termination appropriate, and because the relative placements were willing to adopt the children, termination was in the children's best interests.

The preponderance of the evidence on remand supports the trial court's conclusion that termination was in the best interests of MA and AA. See *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). Because the trial court addressed the relative placements in making its best-interests determination and made the appropriate findings, it did not clearly err in concluding that termination was in the best interests of the children. *In re Olive/Metts Minors*, 297 Mich App at 41, 43.

Affirmed.

/s/ Christopher M. Murray
/s/ Kathleen Jansen
/s/ Michael J. Riordan