

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 11, 2011

In the Matter of P. JACKSON, JR., Minor.

No. 302200
Kalamazoo Circuit Court
Family Division
LC No. 2007-000374-NA

Before: CAVANAGH, P.J., and WILDER and OWENS, JJ.

PER CURIAM.

Respondent appeals of right from the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

This Court reviews both the trial court's termination decision and its best interests decision for clear error. MCR 3.977(K); MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding of fact is clearly erroneous if, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake was made. *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008).

The trial court did not clearly err when it terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (g). The issues that led to adjudication concerning respondent were his incarceration and failure to provide financial, emotional, or physical support for the minor child. After respondent was paroled in November 2009, he was provided with services and visitation. Visitation began as supervised but quickly escalated to unsupervised and weekends. Respondent was initially compliant with services and with the terms of his parole. In February 2010, however, he did not comply with the required drug screens. Beginning in April and for the next five months, respondent either tested positive for marijuana and cocaine, admitted marijuana and cocaine use, or did not provide the required screens.

Also in April 2010, respondent reported he was living in a shelter, and it was determined that this was not an appropriate place for visitation. Respondent did not contact the caseworker for two weeks, and the caseworker then requested that the court's visitation order be changed to supervised visitation because respondent had begun to test positive for marijuana and cocaine. Other than once in June, respondent did not appear again for visitation, and parenting time was suspended in August 2010. At the end of August, respondent turned himself in for parole violations involving drug use and failure to report. Rather than spend time in prison, respondent was allowed to live and obtain treatment on an inpatient basis at KPEP, a program that provides a community alternative to incarceration.

Respondent did well in the KPEP program. At the time of the termination hearing, respondent was still living at KPEP, had recently gotten a job at Taco Bell, and was not using drugs. Although his parole had been extended, respondent's parole officer was pleased with his progress. Respondent had a large family, and they appeared to be supportive when he was clean but not when he was using drugs. Unfortunately, respondent's history throughout the proceedings showed that he did well in a structured environment but did not do well in an environment that was not structured. The trial court complimented respondent on his honesty and believed that he was a good man and loved his son. Respondent, however, was unable to provide proper care and custody for the minor child and there was no reasonable expectation that he would be able to do so within a reasonable time considering the age of the three-year-old minor child. The trial court also acknowledged respondent's large family but noted that when respondent was using drugs, he did not have their support.

We also find that the trial court did not clearly err in its best interests determination. The trial court very carefully reviewed factors that were relevant to this issue. The minor child was three years old and respondent had only been in his life for a three-month period. This was not a long enough period to have created a strong bond. Respondent had not provided guidance to the minor child in terms of love, affection, and religion. He did not have a stable home and did not have steady income to provide for the minor child's needs, including food, clothing, and medical care. Respondent had been unable to show that he could provide the minor child with a stable environment because of his drug use. The trial court was not convinced that respondent had addressed his "demons" and would not "fall off the wagon," throwing the minor child's life into chaos. Respondent's relapse into drug use, and lack of family support when he was using, was not a stable environment for the minor child. The trial court noted that the minor child was in a stable environment in foster care but did not weigh which environment was best for the minor child in its analysis, although it could have. *In re Foster*, 285 Mich App 630; 776 NW2d 415 (2009). Although the trial court recognized respondent's good moral character, the trial court did not clearly err when it focused on what was in the best interests of the minor child and determined that termination of respondent's parental rights was in the minor child's best interests.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Kurtis T. Wilder

/s/ Donald S. Owens