

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 25, 2011

In the Matter of M. I. DEFOUR-GRAVES, Minor.

No. 302815
Oakland Circuit Court
Family Division
LC No. 10-770011-NA

Before: MARKEY, P.J., and SAAD and GLEICHER, JJ.

MEMORANDUM.

Respondent appeals the trial court's order that terminated her parental rights to the minor child under MCL 712A.19b(3)(f). We affirm.

Respondent claims she attempted to visit and contact the child but was rebuffed by the guardian and, therefore, the trial court should not have terminated her parental rights. Termination of parental rights is appropriate if the petitioner proves one or more grounds for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re B and J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). This Court reviews the lower court's findings under a clearly erroneous standard. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Here, the trial court's findings were not clearly erroneous. Respondent had the ability to contact her son in the two years before the guardianship petition was filed, yet seldom tried to visit, call, or write. Because respondent was on drugs or was wanted on a felony warrant, the guardian properly denied respondent contact with the minor child. Respondent has not seen the child since 2007. She was in and out of jail, rehabilitation centers, and prison, and unable to care for the child for many years. Respondent also did not provide regular or substantial support. Because of her history of drug use, crime, and instability, it was very unlikely that she would be able to provide proper care for the child within a reasonable time. The trial court did not clearly err in finding clear and convincing evidence under MCL 712A.19b(3)(f).

We also find no clear error in the court's finding that termination was in the child's best interests. MCR 3.977(H)(3); MCR 3.977(K); MCL 712A.19b(5); *Trejo*, 462 Mich at 356-357; *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009). The child had not seen respondent in years and was bonded with the guardian and her family. This was largely the result of respondent's own poor choices and inability to straighten out her life and get off drugs. The child needs stability and permanence, which respondent cannot offer. The trial court did not clearly err in finding that termination was in the child's best interests.

Finally, respondent claims that her attorney was ineffective for failing to present witnesses she had told him about. No motion for a new trial or for an evidentiary hearing was filed raising this issue and, therefore, review is limited to mistakes apparent from the record. *People v Rodriguez*, 251 Mich App 10, 38; 650 NW2d 96 (2002). Respondent has not demonstrated that the failure to call more witnesses was a serious error or outcome-determinative mistake. *People v Lloyd*, 459 Mich 433, 446; 590 NW2d 738 (1999); *People v Shively*, 230 Mich App 626, 628; 584 NW2d 740 (1998). She also fails to identify which witnesses should have been called or the anticipated content of their testimony. Respondent has not established that she was denied the effective assistance of counsel.

Affirmed.

/s/ Jane E. Markey
/s/ Henry William Saad
/s/ Elizabeth L. Gleicher