

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 8, 2011

In the Matter of MCCLEOD, Minors.

No. 302892
Eaton Circuit Court
Family Division
LC No. 09-017489-NA

Before: WHITBECK, P.J., and MURRAY and DONOFRIO, JJ.

PER CURIAM.

Respondent mother and father appeal as of right from the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (j). We affirm.

Respondents first argue that the trial court clearly erred in finding that the statutory grounds for termination were established by clear and convincing evidence. In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K). Both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the court's best-interest determination are reviewed for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "A finding 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 Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989), quoting *In re Riffie*, 147 Mich App 658, 671; 382 NW2d 842 (1985).

The trial court did not clearly err in finding that there was a reasonable likelihood, based on respondents' conduct or capacity, that the children would be harmed if returned to respondents' home. MCL 712A.19b(3)(j). Although respondents were able to establish appropriate housing and made some improvement in their financial situation, their poor decision making skills and inability to protect the children would always pose a reasonable likelihood of harm to the children. Respondents' therapist testified that, although respondents made some improvements in therapy, their insight was still below a safe range for return of the children. He would not recommend returning the children even with intensive in-home services, or even recommend returning just one child. The therapist believed that respondents would be easily overwhelmed if the children were returned because of their lack of parenting skills and insight. Although the therapist went over parenting scenarios with respondents, they still could not articulate alternate choices for their previous poor choices, including allowing the children to spend unsupervised time with a neighbor who was a sexual predator. Therefore, the trial court

did not clearly err in finding that there was a reasonable likelihood that the children would be harmed if returned to respondents' home. Although we believe that the trial court erred in also finding that MCL 712A.19b(3)(c)(ii) was established by clear and convincing evidence, only one statutory ground needs to be proven before terminating parental rights.

Next, respondents argue that the trial court clearly erred in its best-interest determination. "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). As already discussed, the trial court did not clearly err in finding a statutory ground for termination. Further, the trial court did not clearly err in finding that termination of respondents' parental rights was in the children's best interests. Although it was not established that respondents sexually abused the children, the children were fearful for their safety in respondents' care, and the girls did not wish to even visit respondents. The children all had severe emotional problems, and respondents failed to protect the girls from sexual abuse by a neighbor. Therefore, the trial court did not clearly err in its best-interest determination.

Affirmed.

/s/ William C. Whitbeck
/s/ Christopher M. Murray
/s/ Pat M. Donofrio