

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
February 28, 2012

In the Matter of J. W. L. NEWNHAM, JR., Minor.

No. 304914
Otsego Circuit Court
Family Division
LC No. 08-000137-NA

Before: OWENS, P.J., and JANSEN and MARKEY, JJ.

PER CURIAM.

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

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. *Id.* at 356-357; MCR 3.977(K). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). An appellate court must recognize the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. *Id.*; MCR 2.613(C).

Termination of parental rights was proper under MCL 712A.19b(3)(c)(i), (c)(ii), and (g). The trial court asserted jurisdiction over the child after respondent admitted that her home was unsanitary and unsafe. Following the adjudication, new issues involving respondent's drug use surfaced. By the time of the filing of the permanent custody petition, respondent's home continued to be unsafe and unsanitary, and respondent was still using drugs. Respondent's inability to maintain a clean, safe house, ensure that her son was properly supervised, and refrain from illegal drug use demonstrated that she was unable to provide proper care and custody of her child. Moreover, it would have taken respondent a substantial amount of additional time to show her ability to comply with drug services and remain drug-free.

Respondent argues that she benefited from services. Although there was a period of time during the proceedings when respondent appeared to be benefiting from services, she never demonstrated the ability to maintain a safe and suitable home for her child. A parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody. *In re Gazella*, 264 Mich App

668, 676; 692 NW 2d 708 (2005). Thus, respondent's limited and temporary improvement was not enough to undermine the trial court's decision to terminate her parental rights.

Respondent further argues that her parenting concerns were not differentiated from those of her son's father. There is no evidence that petitioner or the trial court attributed any of the father's parenting shortcomings to respondent. Moreover, respondent was aware that her child's father struggled with drug abuse and depression, and she knew that he was not allowed to supervise their child on his own. Nevertheless, respondent chose to maintain a relationship with him and to allow him access to her home and children. These choices also further demonstrated that she had not adequately benefited from services.

Respondent next argues that the trial court terminated respondent's parental rights because of her infant son's death. Contrary to respondent's assertion, the termination petition was filed because respondent's home was found to be completely unsafe, because respondent was unable to ensure her son was properly supervised, and because she had been using morphine and heroin. All of this came to light around the time of her younger son's death when police and Children's Protective Services entered respondent's home to investigate the circumstances of the death. Thus, termination of parental rights was proper under MCL 712A.19b(3)(c)(i), (c)(ii), and (g).

The trial court also did not err in its best-interest determination. In this case, termination of parental rights was in the best interests of the child because respondent had consistently demonstrated that she was unable to care for her son and provide a stable home. She had not been able to overcome her drug addiction or exercise appropriate parental judgments so that her child could be properly supervised. Moreover, there was no evidence that respondent had the capacity or disposition to provide for the child's basic needs. Although respondent argues that it was in the child's best interests to keep their bond intact because her son experienced the loss of a sibling, she failed to explain how compromising his safety by maintaining his relationship with respondent would be in the child's best interests. Although respondent shared a bond with her son, this bond would not protect the child from substance abuse or ensure he was properly cared for. The bond alone does not provide enough justification to maintain the relationship.

Furthermore, the child needed permanence and stability. He had behavioral issues as a result of his unstable living situation, having been removed from respondent's care so many times and placed in several foster homes. It was in the child's best interests to be raised by someone who could provide him with a stable and safe home, which respondent seemed unable to do. Given the child's young age and respondent's inability to achieve stability in the near future, termination of parental rights was the only feasible option. Thus, the court did not err in its best-interest determination.

We affirm.

/s/ Donald S. Owens
/s/ Kathleen Jansen
/s/ Jane E. Markey