STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
February 14, 2012

In the Matter of MAYS/BILLENSTEIN, Minors.

No. 304929
Mecosta Circuit Court
Family Division
LC No. 10-005526-NA

Before: SAWYER, P.J., and O'CONNELL and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals by right the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(*i*) and (g).[1] We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). The trial court must order termination of parental rights if it finds that a statutory ground has been established and that termination is in the children's best interests. MCL 712A.19b(5). This Court reviews both the trial court's finding that a statutory ground has been established and its best interest determination for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009); MCR 3.977(K).

Respondent and the mother have a history with Children's Protective Services (CPS), including numerous referrals and a removal of two children from the home because of neglect in early 2008. CPS returned the two children to the home approximately two months later; a third child was born later that year. In January 2010, CPS again sought an order to remove the children, then aged three, two, and one. The petition alleged that the mother was physically violent, abused alcohol, and was mentally unstable. Respondent was aware of the mother's behavior, yet failed to protect the children from her chaotic behavior. The court ordered that the children be removed upon finding chronic instability in the home, as well as parental conflict, financial crisis, substance abuse, and lack of consistent food for the children.

[1] The children's mother voluntarily relinquished her parental rights and is not participating in this appeal.

The trial court ordered petitioner to make reasonable efforts to reunite respondent with his children. The court also ordered respondent to comply with, and benefit from, the parent agency treatment plan, including (1) Al-anon meetings; (2) drug/alcohol screens; (3) psychological evaluation; (4) individual counseling; (5) pattern-changing classes; (6) parenting education; (7) job seeking assistance; (8) housing referrals; (9) transportation assistance; and (10) supervised parenting time. After multiple review hearings spanning more than a year, the court terminated respondent's parental rights in June 2011.

On appeal, respondent argues that petitioner's efforts to reunite him with the children were unreasonable. In particular, respondent contends that certain components of his service plan were unduly burdensome, irrelevant to his parenting ability, and designed to disrupt his bond with the children. Respondent emphasizes that he had no history of substance abuse or domestic violence. It is undisputed, however, that the children's mother abused alcohol and engaged in violence. Respondent argues that he ended his relationship with the mother, and that subsequently he did not need the proffered services regarding substance abuse or pattern-changing. However, respondent acknowledged in the trial court that the situation with the mother in the household was detrimental to the children, and that he failed to protect the children from the mother's "issues." We find no error warranting reversal in the trial court's decisions concerning the service plan.

In addition, the record indicates that the reunification efforts were reasonable. The trial court was presented with strong proof that petitioner carefully determined respondent's needs to reunite the family. Despite petitioner's reasonable efforts, there was ample evidence that respondent did not substantially and consistently comply with, and benefit from, his case treatment plans. It is not enough to merely go through the motions of a treatment plan; a parent must benefit from the offered services and acquire sufficient parenting skills so that a child is no longer at risk in the parent's custody. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005), superseded by statute on other grounds in MCL 712A.19b(5).

Respondent also argues that the trial court erred by finding that termination was appropriate under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist). Respondent contends that the conditions leading to adjudication had changed significantly, in that respondent was no longer living with the children's mother, but instead was living with a new girlfriend and her child. Despite this change, however, the record contains clear and convincing evidence that the conditions that led to the children's removal still existed. Respondent's housing remained unstable: he had changed residences multiple times, and some of these changes interfered with his ability to comply with his service plan. Further, there was testimony that respondent's ability to interact with the children at supervised visits was inconsistent. Although respondent made attempts to comply with services and to improve his circumstances shortly before the termination hearing, the court reasonably found that his efforts were insufficient. The trial court concluded that it was unlikely that respondent would change within a reasonable time given the ages of the children and the number of services already made available to respondent. Thus, the trial court properly found clear and convincing evidence to establish termination under MCL 712a.19b(3)(c)(*i*).

This court will affirm a termination of parental rights when one statutory ground for termination has been proven by clear and convincing evidence. *In re CR*, 250 Mich App 185,

207; 646 NW2d 506 (2002). We note, however, that we find no error requiring reversal in the trial court's determination that a second ground for termination existed under MCL 712A.19b(3)(g) (failure to provide proper care and custody). The record demonstrates that respondent was chronically unable to locate stable housing and to identify reliable means to provide for the children's needs.

Respondent also challenges the trial court's decision that termination of respondent's parental rights was in the children's best interests under MCL 712A.19b(5). Respondent argues that the trial court improperly compared respondent's home with the foster parents' home when determining respondent's parental fitness. We disagree. A trial court may properly consider placement when making a best-interest determination. *In re Foster*, 285 Mich App 630, 634-635; 776 NW2d 415 (2009). Moreover, the trial court considered other relevant evidence in making the best interest determination, including respondent's inconsistency in parenting visits and his lack of insight into his children's needs and priorities.[2] We conclude there was no clear error in the trial court's finding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ David H. Sawyer
/s/ Peter D. O'Connell
/s/ Amy Ronayne Krause

[2] The trial court reviewed the best interest factors from the Child Custody Act, MCL 722.23. Although this review was not required, it was a valid aspect of the trial court's analysis. See *In re JS & SM*, 231 Mich App 92, 102-103; 585 NW2d 326 (1998), overruled on other grounds by *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).