

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 20, 2012

In the Matter of PAGE/RACICOT, Minors.

No. 307305
Delta Circuit Court
Family Division
LC Nos. 09-000506-NA,
09-000507-NA, 09-000508-NA

AFTER REMAND

Before: SHAPIRO, P.J., and HOEKSTRA and WHITBECK, JJ.

PER CURIAM.

This case returns to us after we vacated the trial court's best interests analysis and remanded for consideration of the best interests of the Pages' younger daughter in light of her placement with her paternal grandparents.¹ Respondent-mother, A. Page, and respondent-father, T. Page, appeal as of right from the trial court's order terminating their parental rights to their two minor daughters.² We affirm.

I. FACTS

A. BACKGROUND FACTS

We briefly summarize the facts in this case, which we recite in full in our previous opinion. A. Page ingested Vicodin during her pregnancy, and the younger daughter tested positive for opiates when born. The Pages rarely visited the younger daughter while she was in the hospital, and her doctor refused to release her to the Pages' care. In January 2010, the trial court took jurisdiction over the Pages' children, and ordered the younger daughter to reside with her paternal grandparents.

¹ *In re Page/Racicot*, unpublished order of the Court of Appeals, issued July 24, 2012 (Docket No. 307305).

² *In re Page/Racicot*, unpublished opinion per curiam of the Court of Appeals, issued July 24, 2012 (Docket No. 307305).

The trial court closed the first case in October 2010, but again took jurisdiction over the children in August 2011. The Pages had left the children with the grandparents, who did not have guardianship rights over the children and were unable to care for them, and the Pages continued to abuse drugs. The trial court again placed the younger daughter with her paternal grandparents.

In October 2011, when the trial court held the termination hearing, the younger daughter still resided with her paternal grandparents. In its findings and conclusions, the trial court did not discuss its findings concerning the younger daughter separately, and did not discuss what bearing her placement with relatives had on her best interests. The trial court did find that there was some bond between the Pages and the children, but found that the children could not afford to wait as long as it might take the Pages to become fit parents. It determined that it was in the children's best interests to terminate the Pages' parental rights so that the children could have a safe, stable, and loving home with responsible parents. In November 2011, the trial court ordered the Pages' parental rights terminated.

B. PROCEDURAL HISTORY

We released *In re Olive/Metts* after the trial court issued its order terminating the Pages' parental rights. In that case, this Court held that the trial court must consider the best interests of each child individually.³ A child's placement with relatives was a factor that the trial court must consider when determining a child's best interests.⁴ Thus, we remanded this case for the trial court to consider the younger daughter's separate best interests, taking into account that she resided with her paternal grandparents.

C. SUPPLEMENTAL PROCEEDINGS

On August 3, 2012, the trial court issued a supplemental opinion. It found that unlike the father in *In re Mason*, the Department of Human Services (the Department) provided the parents here with services and ample opportunities to establish a fit home for the children over a long period of time. It found that the Pages did not suggest that the youngest daughter be placed with any particular relative, and that the parents did not suggest an alternative to termination, such as that the paternal grandparents be given guardianship over the youngest daughter.

The trial court considered the testimony of D. Page, the daughter's maternal grandmother. When asked what her intentions were for the youngest daughter, D. Page testified that she wanted to see the daughter returned to her parents. D. Page did not offer any permanent plan for the youngest daughter's care. The trial court found that because of the youngest daughter's very young age, she deserved long-term stability and permanency of the kind that a guardianship with D. Page would not provide, because a guardianship is much less permanent than an adoption.

³ *In re Olive/Metts*, ___ Mich App ___, slip op p 3; ___ NW2d ___ (2012).

⁴ *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2012).

The trial court also considered the interest in keeping the youngest daughter together with her siblings, and found that terminating the parental rights of the two oldest children, but not the youngest daughter, would subject the youngest daughter to being separated from her siblings, because they could not be adopted together. The trial court reasoned that in light of these facts, the youngest daughter's placement with her paternal grandparents had little weight on its best interest determination. It determined that termination of the youngest daughter's parental rights was still in her best interests.

II. BEST INTERESTS DETERMINATION

A. STANDARD OF REVIEW

Once the Department has established a statutory ground for termination by clear and convincing evidence, if the trial court also finds from evidence on the whole record that termination is in the child's best interests, then the trial court must terminate the parents' parental rights.⁵ The trial court should weigh all evidence available to determine the child's best interests.⁶ We review for clear error the trial court's determination of the child's best interests.⁷

B. LEGAL STANDARDS

In determining the child's best interests, a trial court may consider a variety of factors, including "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home."⁸ The trial court may also consider the parent's history, unfavorable psychological evaluations, the child's age, inappropriate parenting techniques, and continued involvement in domestic violence.⁹ The trial court may consider the possibility of adoption.¹⁰ Finally, this Court "appreciates the importance of attempting to keep siblings together."¹¹

C. ANALYSIS

As we have stated, we disagree with the Pages' assertion that termination is not in the children's best interest because the children have a strong and loving bond with them. There was evidence that the Pages did not have a strong bond with the children, particularly with the youngest daughter, who did not recognize her parents in pictures. We conclude that the trial

⁵ MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 351; 612 NW2d 407 (2000).

⁶ *In re Trejo*, 462 Mich at 353.

⁷ *Id.* at 356-357.

⁸ *In re Olive/Metts*, ___ Mich App ___, slip op p 3; ___ NW2d ___ (2012) (quotations omitted).

⁹ See *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009).

¹⁰ See *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001).

¹¹ *Wiechmann v Wiechmann*, 212 Mich App 436, 439; 538 NW2d 57 (1995).

court's particularized factual findings and determination on remand are not clearly erroneous and take proper factors into account. The trial court did not clearly err when it determined that the daughter's need for stability and permanency and the unlikelihood that the Pages would be fit to regain custody within a reasonable time outweighed the benefits of placing with her paternal grandparents. Further, the trial court did not clearly err when it determined that additional factors weighed in favor of termination, including the trial court's desire not to foreclose on the possibility that the daughter might be adopted with her siblings so that her bond with them might be preserved.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Joel P. Hoekstra
/s/ William C. Whitbeck