

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 20, 2012

In the Matter of D. C. DAWSON, Minor.

No. 309512
Wayne Circuit Court
Family Division
LC No. 09-489802-NA

Before: FORT HOOD, P.J., and K. F. KELLY and DONOFRIO, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). 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 Sours Minors*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). 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 JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); MCR 3.902(A); *Miller*, 433 Mich at 337.

Termination of parental rights was proper under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). Under MCL 712A.19b(3)(c)(i), at the time of adjudication, respondent was incarcerated and unavailable to care for his son due to drug related problems. By the time of the permanent custody hearing, in addition to having drug issues, respondent had failed to demonstrate that he could maintain a stable home for himself and his son. Thus, termination of parental rights was proper under MCL 712A.19b(3)(c)(ii). Without being able to demonstrate that he was drug free and could maintain suitable housing, he was unable to provide proper care and custody of his child, thereby making termination of parental rights proper under MCL 712A.19b(3)(g). And, given respondent's missed drug screens, positive drug screen, and inability to maintain suitable housing, the child would likely be at risk of harm in his care under MCL 712A.19b(3)(j).

Although respondent argues that the trial court's focus on his missed drug screens was improper, given his extensive history of drug use and incarceration for drug related crimes, it

was necessary for him to demonstrate that he could maintain a drug free lifestyle. In September 2010, respondent had a cocaine positive drug screen. Respondent also missed drug screens throughout the case. He was never able to demonstrate that he had addressed his drug issues. Moreover, although respondent claimed it was hard for him to attend drug screens while looking for employment, he did not timely inform the court of the inconvenient screening location or ever indicate that this was the reason for his missed screens. The agency provided respondent with bus tickets, and the court ordered respondent's drug screens to be moved to a more convenient location. Thereafter, respondent attributed missed drug screens to being discouraged and busy.

Additionally, respondent's drug issues were only part of what contributed to his instability and inability to properly care for his son because he never demonstrated the ability to provide stable housing. Contrary to respondent's assertion, his housing issues were timely and reasonably addressed throughout the case. After respondent's release from prison, he began living with his aunt, and he did not want the child placed there. By December 2010, he was living in a house he obtained with petitioner's assistance. This house was unsuitable, and respondent was facing eviction for failure to pay utilities. He again went to live with relatives in a home that he claimed was not a placement he would plan for his son. And, when respondent's home was evaluated by the caseworker, it was noted to have cleanliness issues that would have jeopardized his son's well being. Respondent remained in the same unsuitable house at the time of the termination hearing and only offered this house as a suitable option when faced with the prospect of termination of parental rights.

Respondent had over a year and a half to demonstrate full compliance with services, but never did. He had been in individual therapy since May 2010, but had not demonstrated any benefit from therapy as he continued to make inappropriate decisions regarding drug screens and housing. A parent must benefit from services to the point where the child would no longer be 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, MCL 712A.19b(5). Thus, given respondent's failure to demonstrate a drug free lifestyle, his inability to maintain housing or to take the child home, termination of parental rights was proper under (c)(i), (c)(ii), (g), and (j).

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 interest of the child. MCL 712A.19b(5); *Sours*, 459 Mich at 632-633.

Termination of parental rights was in the best interest of the child because respondent was unable to care for him and provide him with stability. Although respondent argues that he had the ability to improve his situation, he ignores the child's lengthy placement in foster care. Respondent also failed to explain why it would be in the child's best interests to maintain the relationship given his history of substance issues and inability to maintain suitable housing. Termination of parental rights was in the child's best interests because the child needed permanence and stability. It was in the child's best interests to be raised by someone, unlike respondent, who can provide him with a stable and safe home. If a parent cannot or will not meet his minimum parental responsibilities, the needs of the child must prevail. *In re Terry*, 240 Mich App 14, 28; 610 NW2d 563 (2000) (citation omitted). Given the young child's need for

permanence, 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.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Kirsten Frank Kelly
/s/ Pat M. Donofrio