

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
January 22, 2013

In the Matter of S. D. TERHAAR, Minor.

No. 310837
Kent Circuit Court
Family Division
LC No. 08-054085-NA

Before: DONOFRIO, P.J., and FORT HOOD and SERVITTO, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent's parental rights were previously terminated on March 29, 2010, but this Court granted his motion for peremptory reversal because he was denied the right to counsel and of meaningful participation in the child protection proceedings. *In re Terhaar Minors*, unpublished order of the Court of Appeals, entered September 15, 2010 (Docket No. 297752). After remand, respondent was offered services, including therapy, combined with supervised visits. His parental rights were again terminated on May 25, 2012.

On appeal, respondent argues the trial court erred in terminating his parental rights under (3)(g) and (j), but he does not challenge termination under (c)(i). Only one statutory ground for termination need be established to warrant termination. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Thus, where the trial court cites several statutory grounds as a basis for termination of parental rights and one of the grounds is improper, if the parent does not challenge the other statutory grounds on appeal, the termination will be affirmed. *In re SD*, 236 Mich App 240, 247-248; 599 NW2d 772 (1999).

Regardless, the trial court did not clearly err in finding that the statutory grounds for termination, MCL 712A.19b(3)(c)(i), (g) and (j), were established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Testimony established that the minor child had been in the care of her maternal grandmother for most of her life. The minor child had never lived with respondent, although he had visitation with her when she was very young. Respondent went to prison in 2005 and, prior to these proceedings, had not seen or communicated with the minor child since she was three or four years of age.

In May of 2011, respondent was released from prison and moved to a halfway house. He was released from the halfway house in September of 2011, but returned to the halfway house

because of a supervised release violation in April of 2012. At the time the initial petition relating to the minor child was filed, respondent was incarcerated. At the time of termination, the evidence established that respondent's criminal behavior and consequential incarceration or residency in a halfway house continued. Thus, the conditions that led to adjudication remained and there was no reasonable likelihood they would be rectified within a reasonable time considering the minor child was 11 years old at the time of termination. MCL 712A.19b(3)(c)(i).

Regarding MCL 712A.19b(3)(g), there was no evidence that respondent had ever provided proper care and custody for the minor child. He had not provided her with a home or financial support prior to, during, or after his incarceration and failed to establish an appropriate home for the child during the proceedings. Additionally, during this matter, respondent failed to make progress in counseling that would suggest a willingness or ability to provide proper care for the minor child.

The minor child testified that her limited memories of respondent were negative, and included him killing her dog and threatening her mother. She further testified that she did not want to have contact with respondent. Nevertheless, respondent and the minor child attended therapy sessions separately and had visitation with both of their respective therapists present during the course of these proceedings. There were a total of six visits over the course of a year and each visit lasted between 30 and 60 minutes. The minor child displayed anxiety, negative behavior, and emotional distress associated with the visits. According to the therapists, despite therapy and guidance, respondent failed to show empathy or understanding for the minor child and her lack of desire to establish a bond with him, and failed to show progress in understanding how to build a relationship with her. Given that respondent had never provided proper care and custody for the minor child, and had failed to make progress toward either of these goals, there was no reasonable expectation that he would be able to provide proper care and custody within a reasonable time considering the child's age. MCL 712A.19b(3)(g).

Similarly, there was a reasonable likelihood, based on respondent's failure to make progress in therapy in understanding the minor child's position and feelings, that the child would be harmed if returned to his care. MCL 712A.19b(3)(j). The child experienced anxiety, poor behavior, and a decline in school performance after visits with respondent. When considering termination of parental rights under subsection (j), it is appropriate to consider the potential for emotional as well as physical harm to the children. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011). Thus, the trial court did not clearly err in finding that there was a reasonable expectation that the child would be harmed if she was placed with respondent. MCL 712A.19b(3)(j).

Respondent further argues that the trial court erred in finding that termination was in the child's best interests. MCL 712A.19b(5). A trial court's decision regarding a child's best interests is reviewed for clear error. *In re Trejo Minors*, 462 Mich at 356-357. A child's need for stability and permanency may be considered in determining best interests. See *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011).

In this case, the minor child was doing very well in the placement with the maternal grandmother, with whom she had lived most of her life, and the placement provided permanence and stability. The maternal grandmother intended, if allowed, to adopt the minor child, as she

had the minor child's half siblings. Thus, the trial court did not clearly err in determining termination was in the child's best interests when she was in an adoptive placement, with her siblings, and doing very well. MCL 712A.19(b)(5).

Finally, respondent makes a cursory argument that placement with relatives should weigh against termination. *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). Placement with relatives is a factor that must be considered in determining whether termination is in the child's best interests. *Id.* In this case, the trial court noted that the child was placed with her maternal grandmother, that maternal grandmother had been the primary caregiver for the majority of the child's 11 years of life, that it was the child's desire to be adopted by the grandmother, and that it was in the child's best interests to be adopted by her relatives. Thus, the trial court did consider the placement with relatives in determining termination of respondent's rights was in the child's best interests.

Affirmed.

/s/ Pat M. Donofrio
/s/ Karen Fort Hood
/s/ Deborah A. Servitto