

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
April 18, 2013

In the Matter of A.C. Young, Minor.

No. 312688
Kent Circuit Court
Family Division
LC No. 10-051453-NA

Before: WILDER, P.J., and METER and RIORDAN, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). We affirm.

I. TERMINATION OF PARENTAL RIGHTS UNDER MCL 712A.19b

Respondent-mother first argues that the trial court erred in terminating her parental rights. We disagree.

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. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). Once a ground for termination is established, the court must issue an order terminating parental rights if termination is in the child's best interests. MCL 712A.19b(5); *In re Olive/Metts*, 297 Mich App at 40. We review for clear error a trial court's factual findings, its determination that a statutory ground for termination of parental rights has been proved by clear and convincing evidence, and its best interests determinations. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

In this case, respondent's parental rights were terminated under MCL 712A.19b(3)(c)(i), and (g), which provide:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

The trial court did not clearly err in finding that a statutory ground for termination was established by clear and convincing evidence. The conditions that led to adjudication were the respondent-mother's mental health issues, domestic violence issues, chronic homelessness, lack of parenting skills, and a lack of income/employment. At the time of the termination hearing, the trial court found that (1) respondent-mother still lacked emotional stability because of her failure to consistently take medication to deal with her depression and her failure to attend counseling regularly, (2) respondent-mother still struggled with domestic relations because she indicated that she might not want to go through with her divorce from her husband if her parental rights to the minor child were terminated, even though their relationship included elements of abuse, and (3) respondent-mother struggled with housing and employment because she had failed to pay rent on her apartment in July and August 2012 and was only earning \$30 per week. Respondent-mother had two years to address those conditions and failed to address them. Each of these factual findings was directly supported by testimony at the termination hearing. Therefore, we are not left with a definite and firm conviction that the trial court made a mistake in finding that the statutory ground for termination under MCL 712A.19b(3)(c)(i) was satisfied. Because only one statutory ground is necessary to support the termination of a parent's rights, we need not address whether any other conditions were satisfied as well. *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009).

After a trial court has established a statutory ground for termination by clear and convincing evidence, the trial court must order termination of parental rights if termination is in the best interests of the children. MCL 712A.19b(5); *In re Olive/Metts*, 297 Mich App at 40. The trial court found that termination was in the minor child's best interests because the child needed stability and a daily routine and respondent mother could not provide that stability. The trial court further noted that because of the child's young age, he still had the ability to bond with adoptive parents. A trial court may consider a child's need for permanence in determining the child's best interests. *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). Again, after reviewing the evidence cited earlier, including respondent-mother's mental health issues and inability to have a sufficient income to provide for her child, we are not left with a definite and firm conviction that the trial court made a mistake.

II. DUE PROCESS

Respondent-mother also argues that the trial court infringed on her right to due process when it chose to use a Spanish-language interpreter while completing respondent-mother's termination hearing. We disagree.

The record shows that respondent-mother's native country was Guatemala, that her first language was Mam,¹ that her second language was Spanish, and that she spoke little English. During all of the dispositional review and permanency planning review hearings, the trial court provided respondent-mother with a Mam interpreter. However, at the August 27, 2012, termination hearing, the Mam interpreter present at the beginning of the hearing was required to leave in the middle of the hearing because of another engagement. The termination hearing was then completed with a Spanish interpreter assisting respondent-mother.

Whether the trial court's decision to appoint a Spanish interpreter violated respondent-mother's due process rights presents a question of constitutional law that is reviewed de novo. *In re Rood*, 483 Mich 73, 91; 763 NW2d 587 (2009). But a trial court's factual findings are reviewed for clear error on appeal. *Alliance for Mentally Ill of Mich v Dep't of Cmty Health*, 231 Mich App 647, 656; 588 NW2d 133 (1998).

Both the United States and Michigan constitutions provide that a state may not deprive a person of life, liberty, or property without due process of law. US Const, Am XIV; Const 1963, art 1, § 17; *Hinky Dinky Supermarket, Inc v Dep't of Community Health*, 261 Mich App 604, 605; 683 NW2d 759 (2004). It is well established that parents have a liberty interest protected by due process in regard to the companionship, care, custody, and management of their children. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). We note that a defendant's right to adequate translation in a *criminal* case is guaranteed under due process. *People v Cunningham*, 215 Mich App 652, 657; 546 NW2d 715 (1996). "[A]dequate translation of trial proceedings requires translation of everything relating to the trial that someone conversant in English would be privy to hear." *Id.* at 654-655. But occasional lapses will not render a proceeding fundamentally unfair. *Id.* at 654. While the proceedings herein were not criminal, we will nevertheless assume for purposes of this analysis that due process required adequate translation at the termination hearing.

Here, respondent-mother claims that she did not "fully" understand her Spanish-language interpreter. Respondent-mother points to the transcript where she told the trial court during her adjudication hearing in 2010 that "I understand some words in Spanish and some words are different. A lot of the words are different." She also cites her psychological evaluation report, which acknowledged that a Spanish interpreter was used instead of a Mam interpreter during the evaluation, wherein the evaluator cautioned that "due to [the] language barrier, the results of psychological testing are to be interpreted with extreme caution." However, the evaluator did not make it clear if the referenced "language barrier" was having a *Spanish* interpreter, as opposed to a *Mam* interpreter, or whether the barrier was simply being *nonproficient with English*. Regarding the actual impact of having a Spanish translator instead of a Mam translator, the report merely indicated that that "there were occasions" when respondent-mother "required clarification in the translation process." Finally, the report stated that there were a multitude of reasons that the psychological results were of "questionable validity," including respondent-

¹ Mam is a Mayan language spoken by some people in Mexico and Guatemala. Mam Indian Language <<http://www.native-languages.org/mam.htm>> (last accessed March 5, 2013).

mother's "language barrier, limited educational history, and limited exposure to and experience with standardized testing."

But other evidence was presented to the trial court that respondent-mother understood Spanish sufficiently. Notably, the Spanish interpreter at the termination hearing testified that she was respondent-mother's interpreter during respondent-mother's prior criminal proceedings and that respondent-mother understood her Spanish interpretation during those criminal proceedings. The Spanish interpreter also testified that respondent-mother was assisted in obtaining her legal immigration status by an attorney and immigration clinic employees who used a Spanish-language interpreter. Additionally, respondent-mother's guardian ad litem told the trial court that respondent-mother had told her that she understood others through the use of a Spanish-language interpreter. Finally, respondent-mother's case worker told the trial court that she had spoken with respondent-mother in Spanish on numerous occasions and that respondent-mother was able to understand her.

The trial court found that the Spanish translator was sufficient for respondent-mother to understand what was transpiring in the termination hearing. Because of the evidence presented at the termination hearing, we are not left with a definite and firm conviction that a mistake was made. There was substantial evidence that respondent-mother understood Spanish, including the fact that Spanish interpreters or speakers were successfully used in other legal proceedings and communications. And the psychological report that respondent-mother relies upon does not refute this evidence. Thus, because the evidence supports the finding that respondent-mother could understand the proceedings through the Spanish translator, her due process claim necessarily fails.²

Affirmed.

/s/ Kurtis T. Wilder
/s/ Patrick M. Meter
/s/ Michael J. Riordan

² Again, we stress that we offer no opinion on whether due process requires someone who is nonproficient in English to have a translator in a termination of parental rights proceeding. We need not decide that constitutional issue because even assuming arguendo that such a right exists, the use of the Spanish translator did not violate respondent-mothers' rights. See *People v Meconi*, 277 Mich App 651, 653; 746 NW2d 881 (2008) ("It is our duty to refrain from deciding constitutional issues when a case can be decided on other grounds."), citing *Wayne Co v Hathcock*, 471 Mich 445, 456 n 10; 684 NW2d 765 (2004).