

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
May 16, 2013

In the Matter of M. COOPER, Minor.

No. 313171
Berrien Circuit Court
Family Division
LC No. 2012-000050-NA

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

PER CURIAM.

Respondent-mother, P. Miles, appeals as of right the circuit court order terminating her parental rights to her minor child under MCL 712A.19b(3)(g), (i), (j) and (l). Miles asserts that termination of her parental rights was not in the minor child's best interests. We affirm.

I. FACTS

A. BACKGROUND FACTS

The trial court terminated Miles's parental rights to four of the minor child's siblings in 2007. At that time, Miles had been convicted of second-degree child abuse and was imprisoned.

On June 15, 2012, the minor child's three-month-old sibling died while in Miles's care. Miles, the minor child, and the baby were all sleeping in one bed, and the baby's cause of death was determined to be an "accidental lay over death." The Department of Human Services (the Department) petitioned the circuit court to remove the minor child.

At the time of the baby's death, the minor child was the subject of a guardianship established in Wisconsin about five months after she was born. Miles testified that the minor child's guardians had allowed her to visit Miles for one week, but their car broke down and they were unable to retrieve her. The minor child was in Miles's care for about three or four weeks before the baby died.

Lisa Schmidt, the minor child's foster care case manager, testified that possible marijuana residue was found in Miles's home, but Miles tested negative for marijuana throughout the proceedings. Melinda Bush, a substance abuse screener with the Berrien County Health Department, testified that during a drug screening, Miles indicated that she had no history of substance abuse. Miles denied using marijuana while on parole and, when confronted with her existing file at the Health Department, denied that the information was about her. Bush

scheduled an appointment for Miles to have a full substance abuse assessment, but Miles became “irate” and cancelled the appointment.

Schmidt testified that she observed visits between Miles and the minor child, and the minor child only appeared to share a bond with the foster mother, not with Miles. When Miles picked the minor child up from the foster home, the minor child was distressed to leave her foster mother. Schmidt testified that the minor child did not appear to recognize Miles as a parent, and did not show the same emotions when Miles left as she showed when her foster mother left.

Miles testified that she attended all of her parenting time with the minor child, and that it went well. She testified that she had visited the minor child frequently when she was placed with her guardians in Wisconsin. Miles established the minor child’s guardianship because she had not been stable enough at that time to care for the minor child, but she believed that she was now stable enough to do so. Miles testified that she planned to return to Wisconsin if the court returned the minor child because she had family support there. However, Schmidt testified that during the prior case, the trial court found that Miles’s relatives in Wisconsin were inappropriate to care for the minor child’s siblings.

B. THE TRIAL COURT’S BEST INTERESTS DETERMINATION

The trial court found that Miles continued to exhibit the same issues as in the previous proceeding: she failed to accept responsibility and lacked housing, permanency, and parenting skills. It found that Miles was not truthful about her substance abuse issues and that her parenting skills “remain[ed] at risk.” It found that she was not likely to provide the minor child with a stable environment and that she intended to move near relatives who were inappropriate for the minor child.

The trial court found that the minor child was thriving in foster care, was bonded with her foster mother, and that the foster mother had expressed an interest in adopting the minor child. The trial court found that termination of Miles’s parental rights was in the minor child’s best interests because the child deserved “the opportunity for permanence and [an] ability to thrive.”

II. BEST INTERESTS OF THE CHILD

A. STANDARD OF REVIEW

We review for clear error the trial court’s determination regarding the child’s best interests.¹ The trial court’s factual findings are clearly erroneous if the evidence supports them, but we are definitely and firmly convinced that it made a mistake.²

B. LEGAL STANDARDS

¹ MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

² *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

The trial court must order the parent's rights terminated if the Department has established a statutory ground for termination by clear and convincing evidence, and the trial court finds from evidence on the whole record that termination is in the child's best interests.³ To determine whether termination of parental rights is in a child's best interests, the trial court may consider a wide 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."⁴

C. APPLYING THE STANDARDS

Miles contends that the trial court should have given her additional time to demonstrate her parenting skills. We are not convinced that the trial court made a mistake when it determined that granting Miles additional time would not be in the minor child's best interests.

Here, the trial court found that the minor child required permanency and stability and that Miles was unlikely to provide it. Miles had an extensive history of changing residences, and testified that the longest she had lived in any one place was for two or three years. Miles testified that she placed the minor child in a guardianship because she was an unstable parent when she was born.

Further, the trial court found that Miles had deficient parenting skills because she failed to take responsibility and had a history of substance abuse and criminality. Despite the evidence that Miles was testing negative for marijuana at the time of the termination hearing and made progress with parenting classes, the trial court's findings were not clearly erroneous because the record indicated that Miles would not acknowledge her documented substance abuse or any responsibility for her second-degree child abuse conviction.

Additionally, the trial court found that the minor child was thriving in foster care. This finding was not clearly erroneous given Schmidt's testimony that there was no bond between Miles and the minor child, but the child instead demonstrated a bond to the foster mother.

Thus, the trial court considered appropriate factors when determining whether termination of Miles's parental rights was in the minor child's best interests. On the weight of this record, we conclude that the trial court's determination that the minor child's needs for permanency outweighed the potential benefits of giving Miles a further opportunity to improve her parenting skills was not clearly erroneous.

We affirm.

/s/ Deborah A. Servitto
/s/ William C. Whitbeck
/s/ Douglas B. Shapiro

³ MCL 712A.19b(5); *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

⁴ *In re Olive/Metts*, 297 Mich App at 41-42 (internal quotations omitted).