

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of OSTYN, Minor.

UNPUBLISHED
November 19, 2013

No. 313871
Livingston Circuit Court
Family Division
LC No. 2010-013536-NA

Before: MURRAY, P.J., and DONOFRIO and BOONSTRA, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to her minor child. We affirm.

First, respondent argues that the trial court erred in determining that the statutory grounds for termination were established by clear and convincing evidence. A trial court's finding that the grounds for termination have been proven by clear and convincing evidence is reviewed for clear error. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). "A finding is clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *Id.* (quotation marks and citations omitted). To be clearly erroneous, a decision must be more than "maybe or probably wrong." *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009).

To terminate parental rights, there must be clear and convincing evidence to establish at least one statutory ground for termination. *In re Powers*, 244 Mich App 111, 117; 624 NW2d 472 (2000).

MCL 712A.19b(3)(c)(i) provides that termination is justified if 182 days or more have elapsed and the conditions that led to the adjudication still exist with no reasonable likelihood that they will be resolved within a reasonable time. In this case, barriers to reunification included respondent's unstable housing and income situation. Respondent was to obtain suitable and stable housing and stable income in order to have reunification. The trial court determined that respondent did not have stable housing or income.

At the termination hearing respondent testified that she did not have stable housing or income. Throughout the case, respondent moved often and was frequently homeless. Respondent also had a long history of bouncing from home to home and often relying on friends for housing. Although respondent did secure a Section 8 voucher for housing, she failed to

secure housing utilizing that voucher. At the time of the termination hearing, the voucher had expired and respondent did not have any paperwork to verify that it had been extended.

Respondent also testified that she was unsure if she could provide financially for her minor child. Respondent claimed she was going to apply for social security benefits but admitted that she had been denied the benefits in the past. Respondent had not demonstrated that she had a stable income and testified that the last time she had income was in 2010, two years before the termination hearing.

Based on the evidence, it was not clearly erroneous for the trial court to determine that the conditions that led to termination still existed. *In re Mason*, 486 Mich at 152. Respondent had not demonstrated that she had suitable, stable housing. Furthermore, there was no reason to believe that respondent would obtain housing within a reasonable time because of her history and expired housing voucher. Additionally, respondent did not have stable income and had not had income for roughly two years, so it was reasonable to believe she would not have income in a reasonable time.

Although only one ground for termination must be established by clear and convincing evidence, there was also evidence presented to establish that grounds for termination existed under MCL 712A.19b(3)(g). MCL 712A.19b(3)(g) provides that termination is justified when the parent “fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to” do so within a reasonable amount of time. Based on respondent’s lack of adequate housing and income, it is reasonable to infer that she could not provide proper care and custody. There was also testimony that respondent did not demonstrate proper parenting skills during parenting time. Furthermore, there was evidence that respondent had unresolved substance abuse and mental health issues. There was sufficient evidence to determine that respondent had not taken steps to ensure that she could provide proper care and custody for her minor child. The trial court did not err in determining that this ground was met.

Termination under MCL 712A.19b(3)(j) was also established. Termination on this ground is justified when there is a reasonable likelihood that the child will be harmed if returned to the parent. MCL 712A.19b(3)(j). As discussed, respondent had unresolved issues pertaining to housing, income, substance abuse, and mental health issues. Although it did not appear that the child would suffer physical harm, her emotional state was at risk based on respondent’s lack of cooperation in addressing her own emotional issues. Thus, the trial court did not err in determining that this ground was met.

Respondent also argues that the trial court erred in determining that termination was in the child’s best interests. The trial court’s best-interest determination is also reviewed for clear error. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

If the trial court determines that at least one statutory ground for termination exists, then the court must order termination if the trial court affirmatively finds termination is in the best interests of the child. MCL 712A.19b(5); *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). The trial court may consider the “child’s need for permanency, stability, and finality” when making the best-interest determination. *In re Olive/Metts*, 297 Mich App at 41-

42. The trial court may also consider the bond between the child and the parent, the parent's ability to parent, and any "advantages of a foster home over the parent's home[.]" *Id.*

Respondent maintains that termination was not in the child's best interests because there was a bond. There was evidence that although the child may have wanted to continue to see respondent, the child did not want to live with respondent. This may have evidenced a bond, but that is not the only thing the trial court had to consider. *In re Olive/Metts*, 297 Mich App at 41-42. In concluding that termination would be in her best interests, the court stated:

It is not in a young child's best interests to spend years, more than half her life so far, in guardianship or foster care to see when, or even if, her mother can be rehabilitated. Mother has had more than any reasonable amount of time to demonstrate that she can provide a safe and suitable home for the child. Children should not have to wait indefinitely for parental reformation and rehabilitation [that] does not occur within a reasonable time, or may never come to fruition.

There was evidence that respondent was not in a position to adequately parent the child in light of the barriers that still existed, as discussed above. Furthermore, in light of respondent's history of unstable housing, a foster home or permanent placement would provide the stability and permanence the child needs. There may have been evidence that demonstrated a bond; however, it was not so strong that it outweighed the child's need for stability and permanence. The trial court did not err in determining that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Christopher M. Murray

/s/ Pat M. Donofrio

/s/ Mark T. Boonstra