

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 11, 2013

In the Matter of PEARO, Minors.

No. 314182
Mason Circuit Court
Family Division
LC No. 11-000029-NA

Before: MURPHY, C.J., and FITZGERALD and HOEKSTRA, JJ.

PER CURIAM.

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

The children were removed from their mother’s care on May 11, 2011, on the basis of allegations that mother failed to protect or provide proper care and custody for the children. At the time of removal, respondent had not seen the children in more than one year. The Department of Human Services (DHS) conducted a home study of respondent’s home and denied placement with him in August of 2011. At the time, DHS determined that respondent had not been honest about his substance abuse history, his mental health history, or his financial situation. Respondent’s case service plan identified substance abuse and emotional stability as two of respondent’s barriers to reunification. The trial court terminated respondent’s parental rights following the December 11, 2012 termination hearing.¹

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). “We review the trial court’s determination for clear error.” *Id.* “A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made.” *In re HRC*, 286 Mich App 444, 450; 781 NW2d 105 (2009).

A trial court may terminate parental rights under MCL 712A.19b(3)(g) where “[t]he 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

¹ The trial court also terminated mother’s parental rights to the minor children but she is not a party to this appeal.

reasonable time considering the child's age." MCL 712A.19b(3)(g). DHS identified respondent's housing, substance abuse, and emotional stability as barriers to reunification that he needed to rectify in order to be able to provide proper care and custody for the children. The trial court repeatedly ordered respondent to comply with, and benefit from, his case service plan. Respondent never obtained approved housing, failed multiple drug screens throughout the case and refused to comply with others, and failed to comply with his counseling referral and lied to his case worker about his noncompliance. The record reveals that respondent continually denied or minimized his shortcomings and his need for services. Respondent's case worker testified at the termination hearing that respondent had not rectified any of his barriers to reunification and that there was no indication that he benefited from services.

"[A] parent must benefit from services offered so that he or she can improve parenting skills to the point where the children will no longer be at risk in the parent's custody." *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005), superseded in part on other grounds by statute as stated in *In re Hansen*, 285 Mich App 158, 163; 774 NW2d 698 (2009), vacated on other grounds 486 Mich 1037 (2010). On the record before us, the trial court's finding that MCL 712A.19b(3)(g) provided a statutory ground for termination of respondent's parental rights does not leave us with "a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App at 450. See *In re Trejo Minors*, 462 Mich 341, 362-363; 612 NW2d 407 (2000) (concluding "that the court did not clearly err by finding that the evidence of respondent's slow progress in counseling established the alleged ground for termination under subsection 19b(3)(g)[,]" where the respondent "quit her first referral" and missed multiple sessions with her second counselor); *In re Gazella*, 264 Mich App at 676; *In re CR*, 250 Mich App 185, 196; 646 NW2d 506 (2002) (holding that termination under MCL 712A.19b(3)(g) is appropriate where "there is no real evidence that" the respondent benefitted from the services offered). Because we conclude that the trial court did not clearly err in its finding that the statutory ground of MCL 712A.19b(3)(g) was met by clear and convincing evidence, we do not need to address the trial court's additional grounds for termination. *In re Trejo Minors*, 462 Mich at 360.

Moreover, the trial court did not err by finding by a preponderance of the evidence that termination was in the children's best interests. *In re Ross*, ___ Mich App ___; ___ NW2d ___ (2013), slip op p 6. At the time of termination, the children had been living together in the same foster home for more than a year and were doing well in that placement. The children's counselor testified that the children had steadily improved during counseling, which she attributed primarily to the children's stable home environment with their foster mother. The record supported that the children were bonded to their foster mother, who intended to adopt the children. Evidence of record supported that no such bond existed between the children and respondent. The children's caseworker and their counselor each testified that termination of respondent's parental rights was in the children's best interests. The trial court determined that the children needed permanency and stability, and concluded that delaying termination in order to give respondent "more reunification efforts and more opportunities . . . would be embarking on an uncertain risky [sic] and long process. And it would clearly not be in the "children's best interests given their need for stability and permanence." Accordingly, the petitioner proved by a preponderance of the evidence that termination was in the children's best interests.

Affirmed.

/s/ William B. Murphy
/s/ E. Thomas Fitzgerald
/s/ Joel P. Hoekstra