

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of M. T. PYNE, JR., Minor.

UNPUBLISHED  
September 26, 2013

No. 314469  
Oakland Circuit Court  
Family Division  
LC No. 12-793384-NA

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Before: SERVITTO, P.J., and CAVANAGH and WILDER, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (j), and (l). We affirm.

Respondent first argues that the trial court erred when it concluded that a statutory basis for termination of her parental rights was established by clear and convincing evidence. However, respondent pleaded no contest to petitioner's supplemental petition seeking the termination of her parental rights under MCL 712A.19b(3)(g), (j), and (l). By her plea, respondent indicated that she did not contest that these statutory bases for termination existed. See, e.g., *People v New*, 427 Mich 482, 491-493; 398 NW2d 358 (1986). And, on appeal, respondent does not raise any challenge to her plea. See MCR 3.971. Accordingly, respondent's argument challenging whether clear and convincing evidence established even one statutory basis for termination was waived. See *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000); *New*, 427 Mich at 491-493; *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). However, even if we considered this claim, we would conclude that it is without merit. At minimum, clear and convincing evidence supported the termination of respondent's parental rights under MCL 712A.19b(3)(l) because her parental rights to two older children were previously terminated in Colorado pursuant to a "similar law."

When a statutory ground for termination exists, the trial court must order termination of parental rights if the court also finds from evidence on the whole record that termination is clearly in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 351; 612 NW2d 407 (2000). Respondent argues, however, that the trial court failed to explicitly consider the fact that the child was placed with his paternal grandparents before concluding that termination of respondent's parental rights was in the child's best interests. Therefore, respondent argues, the record was inadequate to make a best-interest determination. We disagree.

Our Supreme Court has held that “a child’s placement with relatives weighs against termination under MCL 712A.19a(6)(a), which expressly establishes that, although grounds allowing the initiation of termination proceedings are present, initiation of termination proceedings is not required when the children are ‘being cared for by relatives.’” *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). Accordingly, the Court held that the fact that the child is placed with relatives at the time of the termination hearing is an “explicit factor to consider in determining whether termination was in the [child’s] best interests.” *Id.* And a trial court’s failure to explicitly address this fact “renders the factual record inadequate to make a best-interest determination and requires reversal.” *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d 144 (2012), citing *In re Mays*, 490 Mich 993, 994; 807 NW2d 307 (2012) and *In re Mason*, 486 Mich at 163-165.

In this case, however, the trial court did explicitly consider the fact that the child was in the care of his paternal grandparents at the time of the termination hearing and held: “[I]t does not appear there are family members able and willing to assist the respondent in a way that would suggest a viable plan for the future.” This finding is supported by the record evidence, including that respondent planned on divorcing the child’s father and the interactions between respondent and the child’s paternal grandparents were difficult and negative. There was no evidence that the child’s paternal grandparents were willing or able to assist respondent in the future or that respondent would be able to provide proper care and custody for the child at some foreseeable time in the future. That is, despite the child’s placement with a relative, the trial court held that termination of respondent’s parental rights was in the child’s best interests and, after review for clear error, we affirm that decision. See *In re Trejo*, 462 Mich at 356-357. In rendering its decision, the trial court appropriately considered respondent’s history and mental health issues, *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001), her parenting ability, *In re Jones*, 286 Mich App 126, 129-130; 777 NW2d 728 (2009), the child’s safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011), and the child’s “need for permanency, stability, and finality,” *In re Gillespie*, 197 Mich App 440, 446-447; 496 NW2d 309 (1992). Accordingly, we reject respondent’s claim that the lower court record was inadequate to make a best-interest determination.

Affirmed.

/s/ Deborah A. Servitto  
/s/ Mark J. Cavanagh  
/s/ Kurtis T. Wilder