

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
July 23, 2013

In the Matter of GAMET/BURDEN, Minors.

No. 314592  
St. Clair Circuit Court  
Family Division  
LC No. 11-000238-NA

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In the Matter of S. R. PRETZER, Minor.

No. 314657  
St. Clair Circuit Court  
Family Division  
LC No. 10-000391-NA

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Before: STEPHENS, P.J., and WILDER and OWENS, JJ.

PER CURIAM.

In Docket No. 314592, respondent C. Burden appeals as of right the trial court's order terminating her parental rights to two of her children, CG and CB, pursuant to MCL 712A.19b(3)(c)(ii), (g), and (j). In Docket No. 314657, respondent appeals as of right a separate order terminating her parental rights to a third child, SP, pursuant to the same statutory grounds. We affirm both orders.

In both appeals, respondent challenges the trial court's determinations regarding the statutory grounds for termination. The trial court's finding that at least one statutory ground for termination has been proven by clear and convincing evidence is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K). "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).

The trial court did not clearly err in finding that §§ 19b(3)(g) and (j) were each established by clear and convincing evidence with respect to all three children. SP entered foster care in October 2010 because respondent had placed her with a relative who was unable to care for the child due to the effects of a drug overdose, and respondent could not be located. Thereafter, other problems were discovered that created a barrier to reunification, including respondent's own substance abuse issue, her lack of financial resources, and her unstable and

inappropriate housing. Respondent made no progress in addressing these issues, which led to CG and CB entering foster care in June 2011. Respondent never successfully resolved any of these issues. Respondent did not complete substance abuse treatment. She continued to smoke marijuana and justified her actions by obtaining a medical marijuana card. Although that card expired without being renewed, respondent continued to use marijuana and admitted using it as recently as January 1, 2013. Respondent was unemployed for most of the time the children were in foster care and subsisted on government cash grants and food assistance. She began working for Goodwill at the end of 2012. She worked part time and her net income averaged \$100 a week for the six-week period between November 25, 2012, and January 5, 2013. Even with cash grants, respondent's income was insufficient to support her because she still could not pay her rent. The failure to pay rent and utility bills had been an ongoing problem since respondent acquired her mobile home in September 2011. Respondent was continually threatened with eviction, but avoided the loss of the home by making alternative payment arrangements with her landlord. New eviction proceedings had been initiated as recently as January 4, 2013, and respondent admitted that she had not made alternative arrangements with the landlord to save her home.

Considering that respondent had been working to rectify her substance abuse, income, and housing issues since at least February 2011, and that they still had not been resolved two years later, the trial court did not clearly err in finding that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time given the children's ages. Further, in light of respondent's continued drug dependence and imminent homelessness, the trial court did not clearly err in finding that the children were reasonably likely to be harmed if returned to respondent's home.

The circumstances described above were also the basis for the "other conditions" that supported termination of respondent's parental rights to SP under § 19b(3)(c)(ii). However, those circumstances were the reasons for the initial adjudication of CG and CB. Although we question whether termination of respondent's parental rights to CG and CB was proper under § 19b(3)(c)(ii), because the trial court did not clearly err in finding that §§ 19b(3)(g) and (j) were both proven with respect to CG and CB, any error in relying on § 19b(3)(c)(ii) as an additional ground for termination was harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Finally, we disagree with respondent's argument that the trial court erred in terminating her parental rights because termination was not in the children's best interests. MCL 712A.19b(5). The trial court's decision regarding a child's best interests need only be supported by a preponderance of the evidence. *In re Moss*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (Docket No. 311610, issued May 9, 2013), slip op at 3. The evidence showed that SP did not have a close bond with respondent and had recently stated that she did not want to return home because she was concerned that respondent would not take her parenting responsibilities seriously and SP would end up back in foster care. CG and CB apparently had a closer bond with respondent, but visiting with her made them anxious and resulted in regressive behavior. The children's therapist testified that termination was in their best interests because respondent was not able to provide the stability and structured home environment they required. Respondent never resolved her housing, employment, and substance abuse issues and had no understanding of why CG and

CB had been removed from her care. The evidence supports the trial court's determination that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Cynthia Diane Stephens

/s/ Kurtis T. Wilder

/s/ Donald S. Owens