

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
October 15, 2013

In the Matter of HOLT/LINDSEY-HOLT, Minors.

No. 314720
Wayne Circuit Court
Family Division
LC No. 10-496440-NA

Before: BECKERING, P.J., and O'CONNELL and SHAPIRO, JJ.

PER CURIAM.

Respondent-mother appeals by right from the trial court order that terminated her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (c)(ii) (other conditions exist that have not been rectified), (g) (failure to provide proper care and custody), (i) (rights to another child have been terminated), and (j) (reasonable likelihood that child will be harmed if returned to parent). Because the trial court did not clearly err by ruling that at least one statutory ground for termination had been proven by clear and convincing evidence or by finding that termination was in the children's best interests, we affirm.

The initial petition in this case requested the court to take jurisdiction of the minor children based on allegations of past Department of Human Services (DHS) involvement, an unsuitable home, neglect of the children, and respondent's continued drug use. The court took jurisdiction over the minor children and ordered respondent to comply with a treatment plan that required her to obtain suitable housing and participate in various substance abuse services. Over 18 months later, a petition was filed seeking termination of respondent's parental rights. Following a hearing, the court entered an order terminating respondent's parental rights. This appeal followed.

"This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *Id.*

A trial court may terminate a respondent's parental rights if it finds that (1) a statutory ground under MCL 712A.19b(3) has been established by clear and convincing evidence and (2) that termination is in the children's best interests. MCR 3.977(F); *In re CR*, 250 Mich App 185, 194-195; 646 NW2d 506 (2001). "Only one statutory ground need be established by clear and

convincing evidence to terminate a respondent's parental rights, even if the court erroneously found sufficient evidence under other statutory grounds." *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). "[W]hether termination of parental rights is in the best interests of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; ___ NW2d ___ (2013).

The evidence established that respondent failed to follow through with services for her long-standing substance abuse problem. Respondent failed to comply with her random drug screens for most of the proceedings, and was repeatedly terminated from substance abuse therapy for noncompliance. While respondent had recently become more consistent in her therapy, she never completed it because she was incarcerated. Respondent never successfully completed any drug treatment program and had not fully resolved her substance abuse issue. Respondent also failed to maintain suitable housing for her children during these proceedings. Respondent resided with relatives for a time during these proceedings, provided addresses to the DHS that turned out to be abandoned homes, and at one point resided in an unsanitary home lacking utilities and beds for the children. At the time of the termination hearing, respondent still had no home, as she was incarcerated in the Wayne County jail.¹ Respondent's failure to resolve her drug abuse in the many months the children were in care, her failure to establish a suitable home for them, and her criminality during these proceedings justified termination under subsections MCL 712A.19b(3)(c)(i), (g), and (j). The prior termination of respondent's parental rights to the children's sibling, born while these proceedings were pending, justified termination under subsection (3)(i).²

The trial court also did not clearly err in its best-interest determination. "In deciding whether termination is in the child's best interests, the court may consider 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." *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted). Respondent points out that she was bonded to her children and displayed appropriate parenting skills during visitations. Nonetheless, the foster care worker opined that termination was in the children's best interests because of respondent's failure to resolve her substance abuse problem and the children's need for permanency.

¹ A search of Michigan's Offender Tracking Information System reveals that respondent was subsequently convicted by plea of second-degree murder, MCL 750.317. On July 10, 2013, respondent was sentenced to ten to 15 years' imprisonment.

² Although termination was not warranted under subsection (3)(c)(ii), the error was harmless because termination was justified under other statutory provisions. *In re Ellis*, 294 Mich App at 32.

According to the foster care workers, the children were adoptable, there was interest in adopting them from relatives and foster parents, and such a plan was in the children's best interests. Given these circumstances, the trial court did not clearly err in concluding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Jane M. Beckering
/s/ Peter D. O'Connell
/s/ Douglas B. Shapiro