

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of L. DURFEE, Minor.

UNPUBLISHED
November 26, 2013

No. 315617
Ingham Circuit Court
Family Division
LC No. 11-001752-NA

Before: METER, P.J., and SERVITTO and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating his parental rights to his minor son under MCL 712A.19b(3)(c)(ii), (g), and (j). We affirm.

The minor child, whose parents were never married, came under the jurisdiction of the court due to allegations that his mother was a drug addict with serious psychological issues. Respondent was aware of these issues and had only become involved in the child's life when he was three months old. Because the electricity had been shut off at his own apartment, respondent began staying in a friend's basement with the mother and the minor child. The basement was deemed unsafe and the minor child was placed with respondent's sister in December 2011 when he was not quite seven months old. Thereafter, defendant maintained minimal contact with the child and tested positive for drugs numerous times. He additionally failed to comply with other requirements of the case service plan. Respondent's parental rights were thus terminated on March 11, 2013.

To terminate parental rights, the court must find clear and convincing evidence that one of the statutory grounds for termination exists. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). The trial court must also find that termination is in the best interests of the child. MCL 712A.19b(5). We review for clear error a trial court's finding that a statutory ground for termination has been proven by clear and convincing evidence. MCR 3.977(K); *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004). "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 at 296-297.

The trial court found by clear and convincing evidence that respondent had failed to rectify conditions that caused the child to come within the court's jurisdiction after being given the opportunity to do so and that there was no reasonable likelihood that the conditions would be rectified within a reasonable time given the child's age. MCL 712A.19b(3)(c)(ii). This finding

was not clearly erroneous. Respondent had not engaged in substance abuse counseling, parenting classes, and supervised parenting time with the child as was required. He continued to use marijuana, was unemployed, and did not have a stable housing situation. Although respondent had taken steps to improve his situation in the months leading up to termination hearing, the minor child had been in placement for nearly his entire life and had already waited a significant amount of time for the conditions that led to his removal to be addressed. The majority of respondent's behavior prior to and during the termination proceedings suggested no reasonable likelihood that the conditions would be rectified within a reasonable amount of time given the minor child's age.

The trial court also found clear and convincing evidence that respondent had failed to provide proper care and custody for the child and that there was no reasonable expectation that he would be able to provide such care within reasonable time, considering the child's age. MCL 712A.19b(3)(g). Again, the trial court found that respondent had refused to attend parenting classes and substance abuse treatment. The trial court also found that respondent had not developed a relationship with the child, having only seen the child a handful of times in the past year and a half. However, the trial court also noted that by the time of the termination hearing, respondent had enrolled in parenting classes and had regularly tested negative for drug use for three months.

In *In re Fried*, 266 Mich App 535, 541-42; 702 NW2d 192 (2005), this Court held that a father who was in the early stages of drug rehabilitation could not provide proper care and custody for his children within a reasonable time because recovery was expected to take 18 to 24 months. Because there was evidence that respondent had not yet demonstrated his ability to parent and had only made *some* progress in his long-term recovery from substance abuse issues, the trial court did not clearly err in finding that this ground for termination had been established.

For the same reasons, the trial court also found clear and convincing evidence that there was a reasonable likelihood that the child would be harmed if returned to respondent's care. MCL 712A.19b(3)(j). Respondent has and had not demonstrated that he could provide a safe environment for the child. He was aware of the mother's drug and psychological issues, yet failed to secure employment or a safe home for the child and failed to address his own drug issues. The child had a right to stability and safety that he could not find with respondent.

Affirmed.

/s/ Patrick M. Meter
/s/ Deborah A. Servitto
/s/ Michael J. Riordan