

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of T. D. JACKSON-KELLY, Minor.

UNPUBLISHED
December 17, 2013

No. 315844
Wayne Circuit Court
Family Division
LC No. 13-511507-NA

Before: BOONSTRA, P.J., and DONOFRIO and BECKERING, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i) (parent's act caused physical injury or physical or sexual abuse to the child or a sibling), (g) (failure to provide proper care or custody), (i) (parent's rights to child's siblings have been terminated due to serious and chronic neglect or physical or sexual abuse), and (j) (reasonable likelihood of harm if child is returned to parent). Because no reunification efforts were required because respondent's parental rights to three other children had been previously involuntarily terminated, and the trial court did not clearly err by determining that termination of respondent's parental rights was in the child's best interests we affirm.

Respondent does not challenge the trial court's determination that the statutory grounds for termination were proven by clear and convincing evidence. See MCR 3.977(E)(3). Rather, she contends that petitioner failed to make reasonable efforts to reunite her with the child and that the trial court's best-interests determination was clearly erroneous. Because respondent did not preserve her argument regarding petitioner's failure to make reasonable efforts toward reunification by raising it below, our review of that issue "is limited to determining whether a plain error occurred that affected substantial rights." *Rivette v Rose-Molina*, 278 Mich App 327, 328; 750 NW2d 603 (2008).

"In general, petitioner must make reasonable efforts to rectify conditions, to reunify families, and to avoid termination of parental rights." *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). Reunification efforts are not required, however, if "[t]he parent has had rights to the child's siblings involuntarily terminated." MCL 712A.19a(2)(c). In this case, it is undisputed that respondent's parental rights to three other children had been involuntarily terminated. Therefore, petitioner was not required to provide respondent with reunification services. Thus, no plain error occurred.

“If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child’s best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.” MCL 712A.19b(5). Whether termination of parental rights is in a child’s best interests must be proven by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court must “decide the best interests of each child individually.” *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). In deciding whether termination is in a child’s best interests, the court may consider the parent’s general parenting ability, *In re Jones*, 286 Mich App 126, 129-130; 777 NW2d 728 (2009), the parent’s history of substance abuse and/or mental health issues, *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001), the child’s bond to the parent, *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004), the child’s safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011), and the advantages of a foster home over the parent’s home. *In re Foster*, 285 Mich App 630, 634-635; 776 NW2d 415 (2009).

“[A] child’s placement with relatives weighs against termination” and the fact that a child is living with relatives when the case proceeds to termination is a factor to be considered in determining whether termination is in the child’s best interests. *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). “A trial court’s failure to explicitly address whether termination is appropriate in light of the [child’s] placement with relatives renders the factual record inadequate to make a best-interest determination and requires reversal.” *In re Olive/Metts*, 297 Mich App at 43.

The record shows that the trial court specifically addressed the fact that the child had been placed with a relative, but nonetheless determined that termination of respondent’s parental rights was in the child’s best interests. The court noted that respondent failed to benefit from services provided in previous proceedings involving her other children and that she either lost or relinquished her parental rights to those children. The court also noted that respondent had untreated mental health and substance abuse issues, that she continued to use marijuana while she was pregnant with the child, who tested positive for the drug at birth, that she did not have suitable housing for the child, and that she did not have any means of supporting the child, all of which showed that she could not provide the stability that the child required. Accordingly, the trial court did not clearly err by finding that termination of respondent’s parental rights was in the child’s best interests.

Affirmed.

/s/ Mark T. Boonstra
/s/ Pat M. Donofrio
/s/ Jane M. Beckering