STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of J. S. CLIFTON, Minor.

UNPUBLISHED
November 19, 2013

No. 315920
Delta Circuit Court
Family Division
LC No. 13-000735-NA

Before: FITZGERALD, P.J., and MARKEY and BECKERING, JJ.

PER CURIAM.

Respondent appeals by right from the circuit court's order terminating her parental rights to her infant son pursuant to MCL 712A.19b(3)(g), (j), (*l*), and (m). For the reasons outlined below, we affirm.

I. JURISDICTION

Although she never raised the issue in the trial court, respondent contends on appeal that the trial court erred by taking jurisdiction over the child in question after her husband, J.L., the legal father, entered a plea and voluntarily terminated his parental rights. Respondent argues that the court should have dismissed J.L. from the action because the child was not the issue of the marriage and, therefore, that his plea could not serve as a basis for jurisdiction. We disagree.

"We review the trial court's decision to exercise jurisdiction [in a child-protective proceeding] for clear error in light of the court's findings of fact." *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). However, we review de novo questions regarding family-court procedure. *In re CR*, 250 Mich App 185, 200; 646 NW2d 506 (2002).

Once a court obtains jurisdiction by virtue of one parent's plea or trial, it can enter an order of disposition against both parents, regardless of the evidence against the other parent. *In re CR*, 250 Mich App at 202-203. Stated differently,

> the court rules simply do not place a burden on a petitioner like the [Family Independence Agency] to file a petition and sustain the burden of proof at an adjudication with respect to every parent of the children involved in a protective proceeding before the family court can act in its dispositional capacity. The family court's jurisdiction is tied to the children, making it possible, under the proper circumstances, to terminate parental rights even of a parent who, for one

> reason or another, has not participated in the protective proceeding. [*Id.* at 205 (footnote omitted).]

Here, the trial court obtained jurisdiction over the child in question after the legal father, J.L., entered a plea and voluntarily terminated his parental rights. Accordingly, the trial court was free to enter an order of disposition against not only J.L. but respondent as well.

On appeal, however, respondent asserts that J.L. is not the father of the child in question and that it was established before the trial court that the child was not the issue of the marriage between J.L. and respondent. Under MCR 3.903(A)(7)(a), which applies to proceedings involving juveniles, "father" is defined, in relevant part, as "[a] man married to the mother at any time from a minor's conception to the minor's birth, unless a court has determined, after notice and a hearing, that the minor was conceived or born during the marriage, but is not the issue of the marriage."

Here, the trial court never made any determination that the child was not the issue of the marriage between J.L. and respondent, although the trial court did note that J.C. claimed to be the biological father and that J.L. claimed to not be the biological father. Further, no evidence of J.C.'s paternity was presented to the court, and no party moved to have J.C. recognized as the biological father of the child in question. Accordingly, J.L. remained the legal father for purposes of MCR 3.903(A)(7). Because the legal father entered a plea sufficient to establish jurisdiction over the child in question, the trial court did not err by taking such jurisdiction with respect to both parents.

II. STATUTORY GROUNDS

Respondent next argues that the statutory bases for termination were not established by clear and convincing evidence. We disagree.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b has been proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000); *In re Fried*, 266 Mich App 535, 540-541; 702 NW2d 192 (2005). We review for clear error the trial court's findings on appeal from an order terminating parental rights. *In re Trejo*, 462 Mich at 356-357; see also MCR 3.977(K). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). Deference is given to the trial court's assessment of the credibility of the witnesses. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

In the instant case, the trial court found that four grounds for termination had been proven by clear and convincing evidence based on MCL 712A.19b(3)(g), (j), (*l*), and (m). Respondent concedes in her brief on appeal that the statutory ground for termination under MCL 712A.19(b)(3)(*l*) "seems to be, unfortunately, well supported by clear and convincing evidence both testimonial and documentary." As only one statutory ground need be proven, respondent's concession is sufficient to affirm the trial court's finding of a statutory basis for termination. Nevertheless, we agree that MCL 712A.19b(3)(*l*), which provides for termination when "[t]he parent's rights to another child were terminated as a result of proceedings under section 2(b) of

this chapter or a similar law of another state," was supported by clear and convincing evidence. It is undisputed that respondent had her rights to two previous children terminated pursuant to child-protective proceedings. Accordingly, the trial court did not clearly err by determining that MCL 712A.19b(3)(*l*) had been established by clear and convincing evidence.

Although a statutory basis for termination exists in this case under MCL 712A.19b(3)(*l*), we also conclude that the trial court did not clearly err by finding that grounds for termination had been proven by clear and convincing evidence based on MCL 712A.19b(3)(g), (j), and (m). MCL 712A.19b(3)(g) provides for termination of parental rights when "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." Here, the evidence showed that respondent had failed to provide proper care and custody for her three previous children and also failed to provide prenatal care for the child in question until shortly before his birth. The evidence also showed that respondent had used marijuana throughout the pregnancy, that the child in question tested positive for marijuana exposure at birth, and that the circumstances relating to respondent's mental health that had led to her previous terminations had not been resolved or otherwise ameliorated. Accordingly, the trial court did not clearly err by determining that MCL 712A.19b(3)(g) had been established by clear and convincing evidence.

MCL 712A.19b(3)(j) provides for termination when "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." Here, the evidence showed that respondent had been unable to provide a safe and suitable home for her children in the past and that the circumstances surrounding those parenting deficiencies had not been resolved by the date of disposition. Accordingly, the trial court did not clearly err by determining that MCL 712A.19b(3)(j) had been established by clear and convincing evidence.

Finally, MCL 712A.19b(3)(m) provides for termination where "[t]he parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state and the proceeding involved abuse that included 1 or more of the following: (*i*) Abandonment of a young child." Here, the evidence showed that respondent voluntarily released her parental rights to her first child after abandoning him at a local hospital. Accordingly, the trial court did not clearly err by determining that MCL 712A.19b(3)(m) had been established by clear and convincing evidence.

Because all four grounds were sufficiently established, and only one statutory basis need be established by clear and convincing evidence, the trial court did not err in finding that there were statutory grounds for termination of parental rights.

C. BEST-INTERESTS DETERMINATION

Finally, respondent argues that the trial court erred by determining that the termination of her parental rights was in the child's best interests. We disagree.

We review a trial court's decision regarding the child's best interests for clear error. *In re Trejo*, 462 Mich at 356-357. Once the petitioner establishes a single statutory ground for

termination under MCL 712A.19b(3), the trial court must order termination if it finds that doing so is in the child's best interests. MCL 712A.19b(5); MCR 3.977(H)(3); *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). "[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; 836 NW2d 182 (2013). 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 Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012).

In the instant case, the evidence showed that there was no bond between the child and respondent and that respondent was not capable of providing a safe and suitable home for the child. The evidence also showed that the child was very young, in need of permanency, and highly adoptable. Given these facts, the trial court did not clearly err in its finding that termination was in the child's best interests.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey
/s/ Jane M. Beckering