

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of M. ALFARO, Minor.

UNPUBLISHED
December 17, 2013

No. 316336
Wayne Circuit Court
Family Division
LC No. 09-491090-NA

Before: METER, P.J., and CAVANAGH and SAAD, JJ.

PER CURIAM.

Respondent father appeals as of right from the order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (j), and (k)(ii).¹ We affirm.

In December 2009, the court authorized a petition alleging respondent's prior history with Children's Protective Services (CPS), a drunk-driving charge, and a recent assault of the minor child. Respondent admitted these allegations and the court assumed jurisdiction over the child. Respondent participated in a treatment plan during 2010 and 2011, and the child was returned to his care in April 2011. In October 2012, the court authorized another petition that requested the court to again take jurisdiction over the minor child and terminate respondent's parental rights. The petition alleged that respondent sexually abused the minor child and used illegal drugs with her. Following a hearing, the court assumed jurisdiction over the minor child and terminated respondent's parental rights. This appeal followed.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights if the court also finds that termination of parental rights is in the best interests of the child. MCL 712A.19b(5). Whether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013). The trial court's decision is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding is clearly

¹ The child's mother died in 2001.

erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

The minor child, who was 16 years old at the time of the termination hearing, testified in detail about the abuse she suffered while in respondent's care. According to the child, respondent had a hot temper and he had been physically abusing her for years. More recently, respondent began to sexually abuse her and had sex with her. Aside from this, respondent consumed alcohol and cocaine with her. Respondent's physical and sexual abuse of the child, continued anger and substance abuse issues, and provision of substances to the child justified termination of his parental rights under MCL 712A.19b(3)(g), (j), and (k)(ii). Although respondent contends the child was not credible, the trial court believed her testimony, and we defer to that determination. MCR 2.613(C); MCR 3.902(A); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

In deciding a child's best interests, a court may consider the child's bond to his parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the suitability of alternative homes. *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). In this case, the court considered the child's bond with respondent, but also considered the fact that the child was removed again after respondent had completed a treatment plan due to his prior physical abuse of the child. The court felt that termination would provide the child with "peace of mind" and would help her get over her trauma.

As the court noted, although respondent had recently completed a treatment plan to address his anger and substance abuse issues, these problems had continued after the child was returned to his care. His anger and substance abuse resulted in more physical abuse and also sexual abuse of his child. The evidence established that the child was making progress in therapy, felt safe in her placement, and wanted to put her trauma behind her. The child did not want any relationship with respondent and desired termination of his parental rights. Given these circumstances, the trial court did not clearly err in terminating respondent's parental rights.

Affirmed.

/s/ Patrick M. Meter
/s/ Mark J. Cavanagh
/s/ Henry William Saad