

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of M. R. CHAPMAN, Minor.

UNPUBLISHED
December 19, 2013

No. 316506
Wayne Circuit Court
Family Division
LC No. 04-431180-NA

Before: WILDER, P.J., and FORT HOOD and SERVITTO, JJ.

PER CURIAM.

Respondent, L. Ayers appeals as of right from a trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (g), (i), (j), and (l). We affirm.

Respondent does not challenge the trial court's determination that the statutory grounds for termination were established by clear and convincing evidence. She argues only that the trial court erred in finding that termination of her parental rights was in the child's best interests. MCL 712A.19b(5); MCR 3.977(E)(4). The trial court's decision regarding the child's best interests is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K). "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 286, 296-297; 690 NW2d 505 (2004).

"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 is in the child's best interests is determined 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 parent's 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 at 301, the child's safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011), the child's "need for permanency, stability, and finality," *In re Gillespie*, 197 Mich App 440, 446-447; 496 NW2d 309 (1992), 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).

The evidence showed that respondent had a substance abuse problem dating back to 2004. She made little effort to overcome her addiction, as a result of which she lost her parental rights to two other children. Despite such evidence, respondent minimized her substance abuse problem, claiming that it played no part in the prior proceeding. Respondent persisted in using drugs, including using cocaine during her pregnancy, and failed to take advantage of a residential treatment program, which led to her incarceration. At the time of the termination hearing, she had been incarcerated since the child was just two months old and would remain incarcerated for approximately eight more months. In the meantime, the child needed permanency. Respondent could not provide a safe and stable home for the child and her poor compliance with services in the past and with the requirements of probation and parole indicated that she was not likely to be able to provide a proper home for the child within a reasonable time after her release. The only known relatives were not suitable for placement. Although respondent identified another relative, there was no evidence that she was suitable for placement or willing to assume responsibility for the child. Under the circumstances, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Karen M. Fort Hood
/s/ Deborah A. Servitto