

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of HUDSON/BABCOCK, Minors.

UNPUBLISHED
December 12, 2013

No. 316575
Van Buren Circuit Court
Family Division
LC No. 11-017035-NA

Before: SAWYER, P.J., and MARKEY and STEPHENS, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor children, TH, AB, and BB under MCL 712A.19b(3)(g) (failure to provide proper care and custody) and (j) (reasonable likelihood of harm if child is returned to parent's home). Respondent father appeals as of right the trial court's order terminating his parental rights to the minor children AB and BB under MCL 712A.19b(3)(g) and (j). We affirm.

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "We review the trial court's determination for clear error." *Id.* "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 450; 781 NW2d 105 (2009).

We first find that the trial court did not clearly err in finding that petitioner established, by clear and convincing evidence, a statutory ground for termination under MCL 712A.19b(3)(j). Termination is proper under MCL 712A.19b(3)(j) where "[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." The harm to the child contemplated under MCL 712A.19b(3)(j) includes emotional harm as well as physical harm. *In re HRC*, 286 Mich App at 459.

Here, respondents had a history of domestic violence. Despite this, they resumed their relationship less than one year into the two-year proceedings. Respondents were granted unsupervised parenting time two months before the termination hearing, and respondent father admittedly pulled AB's arm during one unsupervised visitation. After the only overnight visitation, which occurred the month before the termination hearing, AB returned to her foster home with scrapes and bruising on her back. TH reported that respondent father had pushed AB into a table, and TH and AB both reported that respondent mother told them to keep secrets

about what happened during parenting time. Respondents denied that respondent father had been physically abusive and respondent mother testified at the termination hearing that TH was not always truthful. Because the trial court based its decision to terminate, in part, on the allegations of physical abuse, it is clear that the trial court did not find the testimony of respondents credible. On appeal, this Court gives deference to the trial court's "special opportunity to judge the credibility of the witnesses." *Id.* at 450. The record clearly supports that the children would not be safe from physical harm if they were returned to respondents' care. Further, after respondents' unsupervised visitation was terminated and supervised visitation was decreased, the children's extreme behavior began to improve. Thus, the record clearly supports that the children would be emotionally harmed if they were returned to respondents' care. Accordingly, the trial court's finding that there was a reasonable likelihood of harm if the children were returned to respondents' home does not leave us with "a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App at 450.

Because we have concluded that at least one ground for termination existed, we need not consider the additional ground upon which the trial court based its decision. *Id.* at 461. Nevertheless, we have reviewed this ground and conclude that termination was appropriate under MCL 712A.19b(3)(g) with respect to both respondent father and respondent mother.

Respondents also argue that termination of their respective parental rights was not in the children's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012); MCL 712A.19b(5). We review a trial court's finding that termination is in the child's best interests for clear error. *In re HRC*, 286 Mich App at 459. In *In re VanDalen*, 293 Mich App at 141, when reviewing best interests, this Court looked at evidence that the children were not safe with the parents, were thriving in foster care, and that the foster care home could provide stability and permanency. A trial court may also consider whether the parent has a healthy bond with the children when determining best interests. *In re CR*, 250 Mich App 185, 196-197; 646 NW2d 506 (2002).

Based on the record evidence that respondent father was physically aggressive during the two months of unsupervised visitation and that respondent mother told AB and TH to keep secrets about what occurred during parenting time, we find that the record supports that the children would not be safe with respondents. *In re VanDalen*, 293 Mich App at 141. Further, evidence that the children's extreme behavior decreased after respondents' unsupervised parenting sessions were terminated and their supervised visitation was decreased supports that they did not have a healthy bond with the children. *In re CR*, 250 Mich App at 196-197. Further, AB and BB were doing well in their placement and referred to their foster parents as "mom" and "dad." The foster parents expressed an interest in adopting AB and BB. TH was also improving and his foster parents were committed to helping him with his behavioral problems. Thus, although the record evidence supports that the children were bonded with respondents and would experience grief as a result of the termination of their respective parental rights, termination was necessary for the children to gain the stability and permanence that they needed. *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). Finally, although termination resulted in TH being separated from his siblings, termination of respondent mother's parental rights was required to ensure the safety of each of the children. See *In re Olive/Metts*, 297 Mich App at 42. Based on a review of the record, the trial court correctly ruled that terminating

respondents' respective parental rights was in the children's best interest and, thus, it did not clearly err. MCL 712A.19b(5). *In re HRC*, 286 Mich App at 450.

Respondents also make a cursory argument that they were not provided with adequate procedural due process. Because respondents fail to explain or rationalize this argument, it is abandoned. *Houghton ex rel Johnson v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003). Moreover, to the extent that we have considered the argument, we find that it is unsupported by the record.

Affirmed.

/s/ David H. Sawyer

/s/ Jane E. Markey

/s/ Cynthia Diane Stephens