

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROMHILT, Minors.

UNPUBLISHED
November 12, 2013

No. 317234
Berrien Circuit Court
Family Division
LC No. 11-000009-NA

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

PER CURIAM.

Respondent mother and respondent father appeal as of right the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care and custody), and MCL 712A.19b(3)(j) (reasonable likelihood that the child will be harmed if returned to parent's home). We affirm.

The Department of Human Services (DHS) petitioned for removal of respondents' children in February 2011. The initial service plan indicated several barriers to reunification for respondent mother and respondent father, including (1) mental and emotional health; (2) parenting skills; (3) sexual abuse; (4) domestic relationships; (5) employment; (6) housing; and (7) substance abuse. Although respondent mother initially made progress, two years after the initial dispositional order she continued to test positive for marijuana, did not have verified employment, and lived in a residence without adequate heating. Respondent father returned to jail in August 2011 after violating his probation. After his release in January 2012, he refused to comply with counseling services or take medication for schizophrenia, refused to take a sexual predator assessment, and failed several drug screens. Additionally, the minor children, who were six and seven years of age when removed, exhibited serious behavioral issues, including acting out sexually and physical aggression. One child was eventually placed in residential treatment. However, respondent father refused to acknowledge that the children were sexually abused, and respondent mother remained committed to respondent father. DHS eventually petitioned for termination of respondent's parental rights, and the trial court terminated respondents' parental rights in May 2013.

Respondents argue that petitioner failed to prove the asserted statutory grounds for termination of parental rights by clear and convincing evidence. An appeal from an order terminating parental rights is reviewed under the clearly erroneous standard. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 357; 612 NW2d 407 (2000). "A finding of fact is clearly

erroneous where the reviewing court is left with a definite and firm conviction that a mistake has been made.” *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). “To be clearly erroneous, a decision must strike us as more than just maybe or probably wrong” *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999) (quotation marks omitted).

MCL 712A.19b(3)(c)(i) states:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child’s age.

The principal conditions that led to adjudication were respondents’ lack of adequate housing and income, drug use, and sexual abuse. The evidence established that, despite some initial progress, both respondents failed several drug tests, did not comply with mental health services, failed to obtain employment, and failed to establish a suitable residence. Moreover, respondent father refused to acknowledge that the minor children were sexually abused and blamed their aggressive and sexual behaviors on the foster care family. Although respondent mother acknowledged the sexual abuse, she remained committed to respondent father. Respondent mother told DHS that the couple was divorcing; however, they continued to cohabit on the date of the termination hearing, almost two years after the initial dispositional order. Thus, about two years after the initial disposition, respondents continued to lack adequate income, housing, and parenting skills, despite the multitude of services offered by DHS. In view of this evidence, the trial court did not clearly err in finding that statutory grounds for termination existed under MCL 712A.19b(3)(c)(i). *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012) (where respondents failed to demonstrate sufficient compliance with or benefit from those services specifically targeted to address the primary basis for the adjudication, the trial court did not clearly err by terminating parental rights).

Given the conclusion that there were statutory grounds for termination under MCL 712A.19b(3)(c)(i), it is unnecessary to address the other grounds for termination because petitioner need only establish one ground. *In re Trejo Minors*, 462 Mich at 360. Nevertheless, we have reviewed those grounds and conclude that there was no clear error in the trial court’s findings that the statutory grounds set forth in MCL 712A.19b(3)(g) and (j) were met by clear and convincing evidence.

Next, respondents cite to extensive due process law in their briefing, but do not actually allege any due process violation by the trial court with respect to the procedures in this case. Accordingly, we decline to speculate concerning respondents argument on this issue. Moreover, “[o]nce the petitioner has presented clear and convincing evidence that persuades the court that at least one ground for termination is established under subsection 19b(5), the liberty interest of the parent no longer includes the right to custody and control of the children.” *In re Trejo*, 462 Mich at 355 (internal citation omitted). We have already determined that the trial court did not

clearly err in finding that all three statutory grounds were established by clear and convincing evidence. Thus, respondents' constitutional claims are without merit.

Respondents also challenge the best interest determination. 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); *In re Trejo Minors*, 462 Mich at 353.

The children had significant needs and were making progress in their placement situations after very lengthy proceedings. Structure and stability were being provided in the placements. Given respondents' lack of employment and housing, substance abuse, and respondent mother's commitment to respondent father, who denied the sexual abuse, it was clear respondents could not provide the structure and stability the children needed. The trial court acknowledged the family bond, but the bond between parent and child may be outweighed by the child's need for stability and permanency. *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). Under the circumstances, the trial court did not err in determining that termination was in the children's best interest. See *In re Frey*, 297 Mich App at 248-249 (finding termination was in the child's best interest where the "evidence showed that it was unlikely that the child could be returned to her parents' home within the foreseeable future," and that the child required a safe and stable home).

Affirmed.

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