

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LEXUS DELOIS LITTLETON,
CHELSEA RENEE LITTLETON, LAKENYEI
MONIQUE LITTLETON, and KIANNA
KHALIA LITTLETON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

UNPUBLISHED
April 16, 2009

v

DOROTHY LITTLETON,

Respondent-Appellant.

No. 287570
Wayne Circuit Court
Family Division
LC No. 05-437696-NA

Before: Zahra, P.J., and O’Connell and K. F. Kelly, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court’s order terminating her parental rights. We affirm.

I. Basic Facts

Respondent adopted her four minor children. After receiving allegations that respondent was physically abusing the oldest child, petitioner initiated abuse and neglect proceedings. All of the children eventually became wards of the court. These proceedings continued for over three years and respondent and the children received counseling, therapy, and various other services. Nonetheless, petitioner moved to terminate respondent’s parental rights. After a permanent custody trial, the trial court granted the motion and respondent’s parental rights were terminated. This appeal followed.

II. Standards of Review

We review for clear error a trial court’s decision to terminate parental rights. *In re Roe*, 281 Mich App 88, 95; ___ NW2d ___ (2008). “A circuit court’s decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.” *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). We also review for clear error a court’s determination regarding the children’s best interests. *Id.* at 209. To the extent that we review the

trial court's evidentiary rulings, we review those decisions for an abuse of discretion. *In re Gilliam*, 241 Mich App 133, 136-138; 613 NW2d 748 (2000).

III. Grounds for Termination

Respondent first contends that the trial court erred in finding that petitioner established at least one statutory ground for termination of her parental rights by clear and convincing evidence. We disagree. In order for a court to terminate parental rights, the petitioner must establish at least one of the statutory grounds enumerated in MCL 712A.19b(3) by clear and convincing evidence. *In re JK, supra* at 210. "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000).

The trial court in this case relied on the following grounds to terminate respondent's rights:

(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.

* * *

(g) The 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.

* * *

(j) There 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. [MCL 712A.19b(3)(c)(i), (3)(g), and (3)(j).]

On the evidence presented, we cannot find that the lower court clearly erred. Respondent consistently participated in the services required under her treatment plan, but over the course of the three and a half years that services were provided she was unable or unwilling to take responsibility for her violent actions. At the permanent custody trial, a psychologist who had evaluated respondent at the Clinic for Child Study testified that respondent's consistent denial of the abuse prevented her from learning how to stop the violent behavior. The psychologist testified that he did not have any hope that the relationship between respondent and her children could ever be repaired. Even respondent's own therapist supported the permanent custody petition because respondent, despite over two years of individual therapy, had failed to accept full responsibility for her actions. We can find nothing in the record indicating that this

characteristic of respondent has or will change. On these facts, it was not unreasonable for the trial court to find that respondent had not rectified the condition leading to adjudication and was not reasonably likely to do so within a reasonable time. Thus, the trial court did not err when it terminated respondent's rights under MCL 712A.19b(3)(c)(i). Because petitioner adequately established grounds for termination under § 19b(3)(c)(i), it is not necessary for us to consider the remaining grounds for termination.¹

IV. Best Interests

Respondent next argues that clear and convincing evidence did not show that termination of her parental rights was in the children's best interests, especially with respect to the two younger children who according to respondent still wanted to remain with her. In respondent's view, her compliance with the treatment plan demonstrated her care and concern for the children, and ultimately demonstrated that termination was not in the children's best interests. We disagree.

As noted, a court may decide not to terminate parental rights despite the existence of one or more of the grounds for termination if "there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo, supra* at 354; MCL 712A.19b(5). A parent's compliance with the parent-agency agreement, the strength of the children's bonds with the parent, the time they spent in the parent's care, and the children's ages and needs are all relevant to the best interest analysis. See *In re JK, supra* 214; *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001).

While it is true that respondent consistently participated in her treatment plan, was sincerely interested in the children, and generally acted appropriately during visitation, respondent failed to make any significant and meaningful progress in therapy, thus precluding any possibility that a healthy family bond would develop. All four of the children in this matter have substantial special needs, requiring more attention, patience, and re-direction with respect to their behaviors than is typically required of a parent, and which respondent is not equipped to provide given her inability or unwillingness to take responsibility for her actions. Further, the two oldest children expressed no desire to return to respondent's care throughout the proceedings and, contrary to both parties' assertions on appeal, the two youngest children had mixed emotions about visiting and returning to respondent's care. Given these facts, we cannot conclude that the trial court erred by finding that termination of respondent's parental rights was not clearly contrary to the children's best interests.

Respondent's ancillary argument that the trial court improperly refused to allow the Court Appointed Special Advocate (CASA) to testify regarding the younger children's best interests also fails. Assuming without deciding that the trial court should have admitted the CASA worker's testimony, the testimony would not have changed the trial court's decision given the

¹ Respondent also argues on appeal that petitioner improperly created grounds to terminate her rights. However, respondent does not explain how petitioner created these alleged grounds for termination. Therefore, we consider this argument abandoned. *People v Martin*, 271 Mich App 280, 315; 721 NW2d 815 (2006).

overwhelming evidence to the contrary. We will not reverse a trial court's erroneous determination regarding the admission of evidence if the error was harmless. See *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 768 (1992); *In re Gilliam, supra* at 137.

Affirmed.

/s/ Brian K. Zahra
/s/ Peter D. O'Connell
/s/ Kirsten Frank Kelly