

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of S.A.J.W., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER WARD,

Respondent-Appellant.

UNPUBLISHED
February 23, 2010

No. 294675
Muskegon Circuit Court
Family Division
LC No. 92-018760-NA

Before: Fitzgerald, P.J., and Cavanagh and Davis, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to her son (DOB 2-5-98) pursuant to MCL 712A.19b(3)(g) (failure to provide proper care and custody) and (3)(i) (prior termination of parental rights due to serious and chronic neglect; prior attempts at parental rehabilitation unsuccessful).¹ We affirm.

We review a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous when we are left with the firm and definite conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). To be clearly erroneous, a decision must be more than maybe or probably wrong. *In re Sours, supra*. If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court shall terminate parental rights if it finds from evidence on the whole record that termination is in the child's best interests. MCL 712A.19b(5). We review the trial court's decision regarding the child's best interests for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

¹ Respondent's assertion that the trial court also terminated her parental rights under MCL 712A.19b(3)(j) (reasonable likelihood that child would be harmed if returned to parent's home) is not supported by the record.

The undisputed evidence showed that respondent's parental rights to another child were terminated based on serious neglect of that child, and that respondent had failed to benefit from services repeatedly provided to her by petitioner. Thus, the trial court's finding that termination of respondent's parental rights to the child in these proceedings was supported by MCL 712A.19b(3)(i) was not clearly erroneous. For that reason we need not address respondent's argument that the trial court clearly erred in terminating her parental rights under MCL 712A.19b(3)(g).

The remaining issue for resolution is whether the trial court made adequate findings regarding the child's best interests. We conclude that the trial court did so. The trial court heard testimony and argument at the termination trial, and then made findings of fact and conclusions of law. At the beginning of its statement, the trial court found that MCL 712A.19b(3)(i) provided a statutory basis for termination of respondent's parental rights in the instant proceedings. The trial court then stated that based on the whole record, respondent had not established herself as a parent "to the extent that the best interest of your child is served by being maintained in your custody." The trial court then examined relevant factors, including the child's need for stability, his lack thereof throughout his life, respondent's repeated failure to benefit from services offered by petitioner, and the lack of evidence that respondent would so benefit in the future. The trial court's statement, followed by these findings, constituted a determination that termination of respondent's parental rights was in the child's best interests. See MCR 2.613(A); *In re Hanson*, 285 Mich App 158, 165; 774 NW2d 698 (2009) (harmless error found where the trial court applied the former best interest standard). In the instant case, the record supports a finding that termination of respondent's parental rights was in the child's best interests; reversal is not required under the circumstances.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Mark J. Cavanagh

/s/ Alton T. Davis