

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 17, 2012

In the Matter of M. C. YEAGER, Minor.

No. 306418
Wayne Circuit Court
Family Division
LC No. 09-489060-NA

Before: O'CONNELL, P.J., and JANSEN and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Before terminating a respondent's parental rights, the trial court must make a finding that at least one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). Once a statutory ground is established, the trial court must order termination of parental rights if the court finds that termination is in the child's best interests. MCL 712A.19b(5). This Court reviews parental rights termination decisions for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009); MCR 3.977(K). Clear error exists "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). A trial court may consider evidence on the whole record in making its best-interest determination, which is also reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

At the time of adjudication, the minor child was a preschooler. Respondent had left him and her two older sons without adequate food or money for two or more days. On another occasion, respondent had departed with the minor child, returned four days later without him, and failed to provide specific information about his whereabouts. Thereafter, she led the police on a convoluted path to retrieve the child from her abusive boyfriend's home. Respondent's mental instability was readily apparent during her first court appearance and manifested itself in her long-standing neglect of her children.

Following adjudication, petitioner provided respondent with family reunification services to build her emotional stability and correct her parenting skills deficits. Services included parenting skills classes, psychological and psychiatric evaluations, weekly parenting time, individual therapy that included domestic violence counseling and anger management, and

family counseling. Respondent was also ordered to regularly attend Gamblers Anonymous meetings. Despite nearly two years of services, the issues of respondent's inadequate parenting and inability to maintain a safe and stable home environment continued to exist.

Accordingly, respondent's claim that petitioner did not make reasonable reunification efforts is groundless. A parent must do more than merely participate in services. See, e.g., *In re Dahms*, 187 Mich App 644, 645-647; 468 NW2d 315 (1991). A parent must benefit from services and make the necessary changes so that the child will no longer be at risk of harm in the parent's care. *Id.* Petitioner complied with its statutory obligation to make reasonable efforts. The services offered were specifically tailored to address respondent's mental health problems and inadequate parenting skills. Psychological and psychiatric evaluations revealed that respondent had psychiatric disorders and was also a pathological gambler. Recommendations included individual therapy and medication. At the onset and throughout the proceedings respondent declined to take psychotropic medication. Respondent's refusal to take medication continued to interfere with her ability to benefit from therapy and become stable. Therefore, the trial court did not plainly err in determining that petitioner made reasonable reunification efforts.

Further, there was evidence that respondent failed to substantially comply with, as well as benefit from, her court-ordered treatment plan. A parent's failure to substantially comply with the terms of a treatment plan is evidence that returning the child to the parent's care would pose a substantial risk of harm to the child's physical health or mental well-being. MCL 712A.19a(5). For a period of time it appeared that respondent was progressing in her treatment plan, but she then began another cycle of emotional instability. There was un rebutted evidence that, despite more than a year of counseling, respondent had no insight regarding her need for therapy. A caseworker opined that reunification could not be obtained in a reasonable amount of time. He also testified that respondent did not benefit from parenting classes and that respondent was so resistant to the mental health goal that referring her to any additional parenting time classes was pointless until she adequately addressed her underlying psychiatric disorders.

Thus, the trial court did not clearly err in finding clear and convincing evidence to terminate respondent's parental rights. After more than two years of services, the conditions that led to the child's adjudication—respondent's mental instability and neglectful parenting—continued to exist. Despite being diagnosed with serious psychiatric disorders, respondent refused to take medication. In the months before the termination hearing, respondent made numerous inappropriate comments to, and in front of, her young son. Therefore, the trial court properly concluded that there was no reasonable likelihood that the conditions that led to the child's removal would be rectified within a reasonable time given the child's age. MCL 712A.19b(3)(c)(i).

Similarly, the evidence established that, without regard to her intent, respondent failed to provide the child with proper care or custody, and there was no reasonable expectation that she would be able to do so within a reasonable timeframe. MCL 712A.19b(g). Respondent's finances and housing were precarious. Although respondent is a registered nurse, she was unable to obtain a job for many months. Respondent eventually acquired a job and was living in a home owned by her parents; however, the relationship between respondent and her parents had deteriorated to the point that her housing became unstable.

Moreover, the trial court did not err in concluding that the child would likely be harmed if returned to respondent's care. MCL 712A.19b(j). The proofs showed that respondent's mental stability issues had not been adequately resolved after numerous services. During a supervised visit, respondent was detached and so combative with one of her older sons that the minor child sought protection by hiding underneath a table. The child also reported being fearful of respondent's physically abusive boyfriend.

The court also properly concluded that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); accord MCR 3.977(H)(3). There was clear evidence that respondent's bond with the child was tenuous and that she would not be able to provide a safe and stable environment for him in the near future because of her chronically poor parenting skills and psychological limitations.

Lastly, the trial court did not clearly err when it determined that the child's need for permanence and stability required the more permanent solution of termination rather than guardianship. While placement with relatives may weigh against termination, a trial court is not required to leave a child with relatives in lieu of terminating a parent's rights. *Mason*, 486 Mich at 164; *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). Here, there was initially some indication that respondent's parents could be appointed the child's guardians, but respondent subsequently accused her parents of mistreating the child. Given respondent's tumultuous relationship with her parents (the proposed guardians), the court properly concluded that termination would be in the child's best interests.

Affirmed.

/s/ Peter D. O'Connell
/s/ Kathleen Jansen
/s/ Michael J. Riordan