

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 26, 2012

In the Matter of DREW, SMITH, LAWRENCE,
and MILLER, Minors.

No. 307559
Wayne Circuit Court
Family Division
LC No. 99-385339-NA

Before: TALBOT, P.J., and SERVITTO and M. J. KELLY, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating her parental rights to the nine minor children involved in this case. Respondent argues that the trial court clearly erred in finding that the state established grounds for termination under MCL 712A.19b(3)(c)(i), (g), and (j). Respondent also argues that the trial court erred when it found that termination was in the children's best interests. Because we conclude that the trial court did not clearly err in making these findings, we affirm.

This Court reviews a trial court's finding that the state established a ground for termination of parental rights and that the termination of a parent's rights are in the best interest of the child for clear error. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). A finding is clearly erroneous when, despite the fact that there is record evidence to support it, this Court is left with the definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). This Court should give consideration to the special opportunity of the trial court to judge the credibility of witnesses who appeared before it. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

To permanently terminate a respondent's parental rights, the state must first establish at least one statutory ground for termination. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). Under MCL 712A.19b(3), "[t]he court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:"

- (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.

The trial court found that each of these grounds had been established. Respondent had outstanding warrants for her arrest that precluded her from regaining custody of her children. Even if her children were returned to her, respondent could be arrested at any time, which would require DHS to return the children to their placements. In addition, respondent did not maintain adequate housing for the children. At the time of trial, respondent lived with her nine children in a two bedroom townhouse with her mother. Two of her children exhibited inappropriate sexual behaviors toward other children, which precluded them from staying in the same room as the others and required supervision respondent could not provide. Respondent also failed to maintain consistent housing; she moved several times through the pendency of this case due to her failure to pay rent. Thus, the reasons for respondent's initial adjudication and disposition, her warrants, continued to the time of trial. Further, respondent failed to show that she could provide adequate housing for her children.

Respondent also failed to show that she could provide adequate care for her children with special needs. Eight out of respondent's nine dependent children had special needs requiring extensive medical, therapeutic, and psychiatric attention. At trial, respondent could not recite her children's diagnoses, identify their special needs, or state what medications her children require. She additionally testified that she believed that, contrary to the medical providers' opinions, only two of her children had any special needs. Due to her inability to drive, respondent could not provide her children with consistent transportation to their appointments. Additionally, the evidence that she did not understand or appreciate her children's various conditions supports an inference that she would not be able to ensure that they would receive proper treatment. Finally, respondent lacked adequate financial resources to care for her children. She received \$664 a month in SSI, which amounts to about \$2 a day for each child, and failed to demonstrate a willingness or ability to obtain employment. She has never had a consistent job in her life, lacks a high school education, and lacks any marketable job skills. Respondent's lack of resources, lack of knowledge of her children's needs, lack of transportation capabilities, and housing history support the trial court's finding that she could not adequately care for her children. This finding was not, therefore, clearly erroneous.

The trial court, in addition, did not err in finding a reasonable probability that the children would be harmed if returned to respondent's care. Respondent has a history of neglecting her children and failed to articulate a realistic plan to provide for her children. As the trial court noted, she also appears to have involved herself with men that would abuse her and the children. Respondent failed to obey court orders requiring her to refrain from allowing an abusive father to visit his children. She stated that she did not understand or agree with the order, and therefore allowed the father to visit. However, there was also evidence that she had been beaten in a domestic dispute. The court, therefore, properly found that respondent might expose the children to people that would harm them.

After finding a statutory ground for termination of parental rights, the trial court must also find that termination is in the best interests of the children. MCL 712A.19b(5). The trial court stated that it found termination in the best interest of the children for many of the same reasons it relied on in finding statutory grounds for termination. The court noted that respondent failed to provide adequate, stable housing, and that she was not eligible for government subsidized housing. It reiterated that it would not be in the children's best interest to return them to respondent while she had outstanding warrants because she could be incarcerated at any time. The court also discussed respondent's inability to adequately supervise and control who sees and cares for her children, as she has a demonstrated record of allowing abusive men around her children. The court finally noted that, after over two years of little improvement, respondent was not even close to being in a position to regain custody of her children. The court determined that the children should permanently remain in alternative care to promote stability in the children's lives. Because each of these findings were fully supported by the evidence, the trial court did not clearly err in finding that the best interests of the children required termination of respondent's parental rights.

Affirmed.

/s/ Michael J. Talbot
/s/ Deborah A. Servitto
/s/ Michael J. Kelly