

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
October 4, 2012

In the Matter of RUNYON, Minors.

No. 308776
Ingham Circuit Court
Family Division
LC No. 10-001012-NA

Before: SHAPIRO, P.J., and GLEICHER and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent-father appeals by right the trial court's order terminating his parental rights to the minor children, AR and DM, under MCL 712A.19b(3)(g) and (j). We affirm.

To terminate parental rights, a court must first find, by clear and convincing evidence, that at least one of the statutory grounds under MCL 712A.19b(3) has been established. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court must then order termination if it finds that termination is in the child's best interests. MCL 712A.19b(5).

"This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *Id.* Questions of law involving the application of a statute or court rule are reviewed de novo. *In re Utrera*, 281 Mich App 1, 9; 761 NW2d 253 (2008).

The trial court terminated parental rights under MCL 712A.19b(3)(g) and (j), which provide:

(3) The 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:

* * *

(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.

Respondent has never lived in the same residence with AR. In the brief time DM resided with respondent, respondent committed a substantiated act of child abuse on an unrelated toddler. Respondent argues that his serious health problems have limited his in-person visits with the children. Such serious health problems pose distressing questions about his ability to parent the children. His condition is chronically unstable and has progressed during the process of adjudication. Respondent is legally blind, cannot work or drive, undergoes kidney dialysis three times per week, and is subject to intermittent hospitalizations. He is on a kidney transplant waiting list. A psychological evaluation indicated that he severely lacks in parenting skills necessary to raise the children, in particular DM, who will require therapy to adjust to the years of traumatic experiences he has endured, at least one at the hand of respondent. Respondent's claims that he would obtain a three-bedroom home and that his parents would help out "100 percent" with transportation of the children do not constitute a sufficient basis to find that he could provide proper care and custody for the children. As there was clear and convincing evidence to support such a finding, the trial court did not clearly err in finding adequate statutory grounds for termination under MCL 712A.19b(3)(g).

The trial court also correctly found that there was a reasonable likelihood of physical and/or emotional harm to both children if they were placed with respondent. Respondent seriously injured a toddler, an allegation that was substantiated. However, respondent minimizes the incident and denied responsibility before the trial court. DM has several behavioral issues that have been attributed to witnessing incidents of physical abuse, including the abuse of the toddler. Respondent has failed to adequately pursue counseling. His documented low tolerance for stress and inability to comprehend the gravities of parenthood, in particular as they relate to a child with particular and important psychological needs, all indicate that the children would suffer harm if they were placed in respondent's care. As there was clear and convincing evidence to support such a finding, the trial court did not clearly err in finding adequate statutory grounds for termination under MCL 712A.19b(3)(j).

The trial court also did not clearly err in determining that termination was in the best interests of the children. MCL 712A.19b(5) provides:

If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.

The record supports the trial court's ruling that termination was in the best interests of the children. DM's evaluation indicates that he needs permanence and stability, as he is already far behind his peers in both grade level and reading ability. Respondent has also shown reticence to obtain requested counseling. Respondent has only visited the children in person three times during the period they have been in the custody of their maternal grandparents. Considering the

children's ages and needs, respondent's inability to meet those needs, and the lack of any semblance of a parent/child relationship between respondent and either child, the trial court did not clearly err in ruling that termination was in the children's best interest.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Elizabeth L. Gleicher
/s/ Amy Ronayne Krause