

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 13, 2012

In the Matter of V. Prophet, Minor.

No. 309736
Alpena Circuit Court
Family Division
LC No. 11-006626-NA

Before: WHITBECK, P.J., and FITZGERALD and BECKERING, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii) (desertion for more than 91 days), (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), and (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). We affirm.

We review for clear error a trial court's finding that a statutory ground for termination has been proven by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 402 (2000). We also review for clear error a trial court's findings regarding a child's best interest. *Id.* A finding is clearly erroneous if, although evidence exists to support it, the reviewing court, after reviewing the entire record, has a firm and definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). When reviewing a decision under the clearly erroneous standard, "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appear before it." *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

After a thorough review of the record, we conclude that the trial court did not commit clear error when it found that clear and convincing evidence existed to terminate respondent's parental rights under MCL 712A.19b(3)(a)(ii), (g), and (j). The trial court took special note of respondent's extensive criminal record, and found credible the testimony of the child's mother regarding respondent's assaultive nature. Specifically, the mother testified that respondent had physically assaulted her several times, including three times while she was pregnant with the child, and once while she was holding the child and resulted in an injury to the child's head. The record indicates that respondent failed to communicate with the child for a lengthy period of time, failed to provide meaningful support for the child, and failed to attempt to gain custody of

the child in Michigan. The record also indicates that respondent failed to meaningfully respond to petitioner's attempts to engage him; at the time of the termination trial, respondent had received no services and had not even begun to attempt to comply with any parent agency treatment plans.

Moreover, the evidence does not demonstrate that the trial court committed clear error when it found that termination of respondent's parental rights was in the best interests of the child. MCL 712A.19b(5). The trial court did not err when it terminated respondent-appellant's parental rights.

Affirmed.

/s/ William C. Whitbeck
/s/ E. Thomas Fitzgerald
/s/ Jane M. Beckering