

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of THOMPSON, Minors.

UNPUBLISHED
April 10, 2014

No. 318071
Calhoun Circuit Court
Family Division
LC No. 2012-001984-NA

Before: DONOFRIO, P.J., and CAVANAGH and JANSEN, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's orders terminating her parental rights to the minor children NT and HT under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (c)(ii) (other conditions exist that could have caused the child to come within the trial court's jurisdiction and they have not been rectified), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if child is returned to parent). We affirm.

Respondent first argues that the trial court erred when it found that statutory grounds for terminating her parental rights had been shown by clear and convincing evidence.

We review a trial court's factual findings, including its determination that a statutory ground for termination of parental rights has been proven by clear and convincing evidence, for clear error. *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.*

A trial court may terminate a respondent's parental rights if it finds that (1) a statutory ground under MCL 712A.19b(3) has been established by clear and convincing evidence and (2) that termination is in the children's best interests. *In re CR*, 250 Mich App 185, 194-195; 646 NW2d 506 (2001).

The trial court terminated respondent's parental rights under MCL 712A.19b(3)(c)(i), (c)(ii), (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:

* * *

(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.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, 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.

On appeal, respondent argues that the trial court clearly erred by terminating her parental rights. In respondent's statement of the questions presented, she raises the issue of whether the trial court clearly erred by terminating her parental rights pursuant to all of the above statutory grounds. However, in her brief on appeal, respondent's argument section omits any discussion related to statutory ground MCL 712A.19b(3)(c)(ii). Accordingly, the failure to brief the issue results in it being abandoned on appeal. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999). Further, because a trial court need only find that one statutory ground is satisfied by clear and convincing evidence in order to terminate parental rights, *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009), respondent's failure to address whether the record supported termination of her parental rights pursuant to subsection (c)(ii) precludes relief with respect to the question of whether *any* statutory ground for termination was sufficiently established. See *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987). Nevertheless, we have considered the statutory grounds and conclude that the trial court did not err in terminating respondent's parental rights.

Specifically, with respect to MCL 712A.19b(3)(g), termination is proper when "[t]he 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." This Court has previously found that termination

was proper under MCL 712A.19b(3)(g) where there was “insufficient evidence to conclude that” the parent would remain “sober in the future.” *In re CR*, 250 Mich App at 195-196.

The record establishes that respondent was unable to provide proper care to NT because respondent lacked proper housing and that respondent was unable to provide proper care to HT because she was abusing substances. The record supports that respondent remained unwilling or unable to provide proper care throughout the proceeding. Respondent had a history of substance abuse. During the 12 months that she submitted to screenings, she tested positive for marijuana 30 times, and she tested positive for alcohol three times. There were also times that respondent failed to attend scheduled screenings. Importantly, respondent tested positive for marijuana and alcohol a total of 22 times while she was pregnant with her third child. Less than one month before the termination hearing, respondent’s third child was removed from her care because the child was born with marijuana in her system. Although ordered to submit to a substance abuse assessment in August 2012, respondent did not do so until January 7, 2013. It was recommended that respondent attend two therapy groups and individual counseling to address her substance abuse. Respondent failed to attend several individual counseling sessions, and she did not attend the substance abuse therapy groups. Although respondent testified at the August 28, 2013 termination hearing that she had not smoked marijuana since May 16, 2013, the record establishes that she tested positive for marijuana on July 25, 2013. Thus, at the time of the August 28, 2013 termination hearing, respondent had, at best, demonstrated sobriety for only one month. Importantly, as of July 30, 2013, respondent was at risk of relapse. Further, at the time of the termination hearing, respondent was unable to provide for the children’s basic needs because she did not have an income. The record clearly supports that respondent could not provide proper care and custody at the time of termination. See MCL 712A.19b(3)(g).

While respondent argues that she would have been able to provide proper care and custody if given additional time, the record clearly establishes that there was “no reasonable expectation” that she would “be able to provide proper care and custody within a reasonable time considering” the ages of the children. Respondent demonstrated a complete inability or unwillingness to maintain sobriety throughout the proceeding. Moreover, NT was seven years old at the time of termination and had been under a legal guardianship with another caregiver for a majority of her life. At the time of termination, NT had been in care for 14 months, and HT had been in care for eight months. The trial court’s finding that termination of respondent’s parental rights was proper pursuant to MCL 712A.19b(3)(g) does not leave us with a definite and firm conviction that a mistake has been made. Because only one statutory ground is necessary to support the termination of a parent’s rights, we need not address whether any other conditions were satisfied as well. *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011).

Respondent next argues that termination of her parental rights was not in the children’s best interests. “Once a statutory ground for termination has been proven, the trial court must find that termination is in the child’s best interests before it can terminate parental rights.” *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012); MCL 712A.19b(5). We review a trial court’s finding that termination is in the minor child’s best interests for clear error. *In re HRC*, 286 Mich App at 459. When reviewing best interests, it is appropriate to look at evidence that the children were not safe with the parents and that they were thriving in foster care. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). A trial court may also consider

whether the parent has a healthy bond with the minor child when determining best interests. *In re CR*, 250 Mich App at 196-197.

At the time of termination, seven-year-old NT had not been in respondent's care for at least six years. Although NT was bonded to respondent, she did not view respondent to be a parental figure, and she reported that it would be "weird" to live with respondent. The record further establishes that HT had lived with his maternal grandmother for "a lot of his life," and he wished to return to her care. Although HT was bonded to respondent and enjoyed spending time with her, he did not report that he wanted to return to her care. The children's therapist was unsure if the children were willing to "let [respondent] be their full time parent." Thus, the record establishes that the children did not have a healthy parent-child bond with respondent. See *In re CR*, 250 Mich App at 196-197.

While respondent argues that it was in the best interests of the minor children to give her more time to complete services, this Court has to look at the best interests of the children, including their need for stability. See *In re Trejo*, 462 Mich 341, 364; 612 NW2d 407 (2000). Throughout a majority of the proceeding, respondent demonstrated a complete inability or unwillingness to address her long-term substance abuse. The children required permanence, and they were exhibiting anxiety because they were unsure where they were going to live in the future. At the time of termination, the children were doing well and were progressing in their placement. Their caregiver had expressed an interest in adopting them. Thus, the record established that the children were being provided with the stability that they required, which respondent could not provide. *In re VanDalen*, 293 Mich App at 141-142. Based on a review of the record, the trial court did not clearly err in finding that terminating respondent's parental rights was in the children's best interests.

Finally, we note that respondent cursorily states in her brief on appeal that her due process rights were violated because the HT was "added" to the proceeding on August 28, 2013, without prior notice. To the extent that respondent raises this issue on appeal, it is abandoned. First and foremost, respondent did not list the issue in her statement of the questions presented as required by MCR 7.212(C)(5). *Bouverette v Westinghouse Electric Corp*, 245 Mich App 391, 404; 628 NW2d 86 (2001). Additionally, respondent failed to explain or rationalize her argument or cite to supporting authority in her brief. *Prince*, 237 Mich App at 197. Nevertheless, we find that the argument is entirely unsupported by the record.

Affirmed.

/s/ Pat M. Donofrio
/s/ Mark J. Cavanagh
/s/ Kathleen Jansen