

STATE OF MICHIGAN
COURT OF APPEALS

In re PARMENTER, Minor.

UNPUBLISHED
November 20, 2014

No. 322242
Osceola Circuit Court
Family Division
LC No. 11-004829-NA

Before: BOONSTRA, P.J., and DONOFRIO and GLEICHER, JJ.

PER CURIAM.

Respondent-mother (hereinafter “respondent”) appeals as of right from the trial court’s May 20, 2014 order terminating her parental rights to the minor child, GP, pursuant to MCL 712A.19b(3)(a)(ii) (desertion for 91 or more days), (3)(c)(i) (conditions that led to adjudication continue to exist), and (3)(j) (reasonable likelihood of harm). We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

Respondent is the mother of GP (born October 16, 2012). Respondent also has three older children. Her parental rights to the three older children were terminated on January 22, 2014¹. Respondent-father Kristopher Hoover² testified that his relationship with respondent started after the three older children were removed from respondent’s care and custody.

On August 11, 2011, petitioner filed a petition regarding the three older children because two of them, twin daughters, were born with THC in their systems and respondent had made threats to harm the children. The petition alleged that respondent had directed the threats to Anthony Snyder, the father of the twins, sending text messages such as, “If you don’t contact me . . . I’m leaving your kid[s’] bodies in the swamp,” and minutes later, “Get your kid[s’]

¹ See *In re Parmenter/Snyder*, unpublished opinion per curium of the Court of Appeals, issued September 16, 2014 (Docket No. 320287).

² Hoover’s parental rights to GP were terminated in the same order as were respondent’s; however the trial court later vacated the order to the extent that it had terminated Hoover’s parental rights, in conformity with *In re Sanders*, 495 Mich 394; 852 NW2d 524 (2014). Hoover’s parental rights are not an issue in this appeal.

bodies.” The twins were placed with their grandmother; the other of the older children was placed with her father. Respondent was allowed supervised visitation.

On October 18, 2012, after GP’s birth, petitioner filed a petition requesting that the trial court take jurisdiction over GP and that it order her also to be removed from respondent. GP was placed in petitioner’s care with relative placement authorized, and thereafter, was placed in protective custody with her uncle (respondent’s adoptive brother), and aunt, with liberal visitation to be supervised by family members. At the adjudication hearing, respondent pleaded no contest to the petition, giving the trial court jurisdiction over GP. The trial court ordered GP’s continued placement under petitioner’s care and custody.

Respondent has been diagnosed with major depression, cannabis dependence (in remission), posttraumatic stress disorder, generalized anxiety disorder, panic attacks without agoraphobia, dependent personality disorder, and personality disorder with borderline features. She reported a history of drug use, including marijuana, Adderall, cocaine, and crack cocaine. Amy Lilienthal, the foster-care worker assigned to this case, testified at a termination hearing on November 14, 2013 that respondent had been offered treatment at Community Mental Health (CMH) to address her emotional stability, Care Net for parenting skills, random drug testing, foster-care management, psychological evaluations, and bonding assessments. Hoover indicated that he was in prison when GP was born, and was released in September 2013.³

On January 22, 2014, the trial court terminated respondent’s parental rights to the three older children. However, the trial court denied the petition with regard to GP, stating that it was premature because respondent and Hoover continued to reside together and reunification remained the goal for Hoover. On January 27, 2014, petitioner filed a petition to terminate respondent’s and Hoover’s parental rights to GP. Respondent appealed as of right the trial court’s order terminating her parental rights to the older three children; this Court affirmed.⁴

At a subsequent March 2014 termination hearing regarding GP, Lilienthal testified that there had been no visitation between respondent and any of the children since June 2013.⁵ Lilienthal stated that respondent’s parenting time was once suspended based on a psychologist’s recommendation that the visitations were not in the children’s best interest. Lilienthal added that even after parenting time was reinstated, respondent did not visit GP until after the trial court had terminated her parental rights to the three older children. According to Lilienthal, respondent said that she was “working on herself” at that time. Lilienthal said that, after the entry of the order terminating respondent’s parental rights to the three older children, respondent and Hoover

³ Hoover acknowledged that he had a drug conviction in 2005, a domestic violence charge that was pleaded down to a disorderly conduct in 2010, a conviction for assaulting, resisting, obstructing of a police officer, and multiple probation violations.

⁴ *In re Parmenter/Snyder*, unpublished opinion per curium of the Court of Appeals, issued September 16, 2014 (Docket No. 320287).

⁵ At the earlier November 2013 termination hearing, Lilienthal testified that until June 2013, respondent had attended approximately 25 percent of her authorized visitations with GP.

had had five supervised visits with GP and there were no safety concerns during the visits. Hoover testified that respondent lived in Unionville, a one and a half to two hour drive away from Tuscola, where GP was placed.

Lilienthal testified that respondent also had not followed through with her mental health treatment with CMH since the 2013 termination hearing. Lilienthal said respondent was “not engaging in [the CMH] services and has missed appointments and . . . [was] looking at being dropped from [the program.]” According to Lilienthal, respondent had attended all her appointments with CMH before the 2013 termination hearing, and had done what she needed to do. Lilienthal said that after the termination hearing, she had attempted to contact respondent many times, either face-to-face or by text or phone, but respondent had responded on only two occasions, and with very derogatory comments. Lilienthal indicated that, on multiple occasions, she had visited the house where respondent and Hoover lived, but that she was not allowed into the home. She said that the last time she visited their house, a car was in the driveway and she could hear noise in the house, but no one answered the door. According to Hoover, Lilienthal had attempted to visit the house when no one was home.

Lilienthal testified that GP had a strong bond with her foster family, including her maternal aunt, uncle, and cousins. Lilienthal said that GP’s aunt had been her main caregiver since she was born. Lilienthal stated that GP’s aunt and uncle were separated, but that the uncle recently began having more contact with GP as well as his four children. Lilienthal expressed concerns about reunifying GP with respondent. Lilienthal said that, considering GP’s age and the family relationship, petitioner’s plan was for GP to be adopted by her aunt.

Hoover testified that he and respondent were engaged to be married. He acknowledged knowing that respondent had mental health issues. Hoover testified that he was taking respondent to appointments and helping her to control her emotions. Hoover denied any concerns about leaving GP alone with respondent, and indicated that respondent’s mental condition was not that serious and her past text messages to the older children’s father threatening to harm her children were just an “empty threat.” Hoover explained that respondent’s mental issues were associated with letting her emotions build up, and with stress resulting from the termination of her parental rights to her children.

Hoover testified that he had been employed for almost six months, and that his job was going well. He said that he and respondent were able to afford the residence they lived in, and to pay for utilities and food. Hoover added that their house was clean and well-furnished. Hoover said that he had a six-year-old son who had been placed under the guardianship of Hoover’s father and stepmother, and that he was having weekly unsupervised visitation with his son.

The trial court terminated respondent’s parental rights in a written opinion on May 20, 2014, finding by clear and convincing evidence that the statutory grounds were supported under MCL 712A.19b(3)(a)(ii), (3)(c)(i), and (3)(j), and that termination of parental rights was in the best interests of GP. In determining whether the termination of parental rights was the best interests of the child, the trial court relied on the relevant factors within the Child Custody Act, MCL 722.21 *et seq.*, and this Court’s opinion in *In re Olive/Metts Minors*, 297 Mich App 35; 823 NW2d 144 (2012). This appeal followed. On appeal, respondent does not challenge the

trial court's findings regarding the statutory grounds for termination. Respondent's sole argument is that the trial court erred in finding that termination was in GP's best interest.

II. STANDARD OF REVIEW

We review the trial court's factual findings regarding a child's best interests for clear error. MCR 3.977(K); *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). "A finding of fact is clearly erroneous 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; 690 NW2d 505 (2004).

III. ANALYSIS

Once a statutory ground for termination is established, the trial court shall order termination of parental rights if it finds by a preponderance of the evidence that termination is in the child's best interest. MCL 712A.19b(5); *In re Moss Minors*, 301 Mich App at 83. In deciding whether termination is in the child's best interest, the court may consider the child's bond to the parent, the parent's ability to parent, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. *In re Olive/Metts Minors*, 297 Mich App at 41-42 (citations omitted). The court may also consider whether the child is progressing in his or her current placement, *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011), and a parent's compliance with his or her case service plan, *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014). "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." MCL 712A.19b(5).

In determining whether the termination of parental rights was the best interest of the child, the trial court in this case relied on the relevant factors within the Child Custody Act, MCL 722.21 *et seq.*, and this Court's opinion in *In re Olive/Metts Minors*.

Regarding the parent-child bond, the trial court found that there were few, if any, emotional ties between respondent and the child. The court noted that GP was removed from respondent's care at birth and that respondent attended only 25 percent of the scheduled visits with GP before her parenting time was suspended. The court also found that respondent, by choice, had made little effort to consistently visit GP even after the parenting time was reinstated.

As for parenting ability, the trial court looked at respondent's capacity and disposition for love, affection, and emotional ties. The trial court found that respondent's emotional barriers affected her disposition to parent continuously; specifically, the court cited the fact that respondent was suffering from emotional challenges and had a history of prioritizing her own emotional needs over the needs of her children.

With regard to the capacity and disposition of the parents to provide the child with food, clothing, medical care, or other material needs, the trial court noted that respondent was receiving social security disability income that was sufficient to provide for her own needs. The court found, however, that GP's current relative placement would be better for the child because

the current placement not only met all of GP's needs in material and emotional senses, but also could provide a future relationship between GP and her other siblings, something that respondent could not offer.

The trial court noted that respondent's substance abuse was in remission, and that she had made some progress regarding her mental health issues. However, the court found that respondent was non-compliant with treatment at the time of the termination hearing, and showed continuing hostility and belligerence in communicating with petitioner. The trial court further noted that as respondent's relationship with Hoover progressed, respondent had disengaged with mental health treatment. Respondent's mental health issues remained the court's primary concern.

The court also found that the potential for domestic violence in the household continued to exist. The court recognized that respondent had expressed aggressive and threatening behaviors toward petitioner's personnel and had exposed her three older children to her emotional outbursts. The court noted that respondent at times did not have insight into how others were affected by her outbursts. The court also found that Hoover had a history of assaultive behavior and had not shown that he was a stabilizing influence in respondent's life. The trial court explained that how these two volatile personalities would interact over time was a topic of great concern with regard to the best interest of GP.

Regarding the need for permanency and stability, the trial court found that GP's foster care placement was stable. The court noted that the child's foster home was the only home she had known. The trial court further noted that respondent had appropriate housing, but concluded that, considering respondent's history of volatile and short-lived relationships, she would not be able to provide GP with permanency and stability.

On our review of the record, the trial court's findings were supported by a preponderance of the evidence and were not clearly erroneous, *Moss*, 301 Mich App at 80, 83. Respondent argues that she was not afforded a sufficient opportunity to create an appropriate bond with the child. However, the record is clear that respondent chose to visit the child less than her other children, even when she was allowed to visit her. Respondent further contends that the child's current placement is not stable because her aunt and uncle have separated. Regardless of how that relationship resolves, however, the current placement is still more beneficial to GP than placement with respondent would be. GP has been in her foster home since birth, and has developed emotional ties and a bond with her foster family. The record indicates that GP's aunt is a licensed foster care provider and was still married at the time of the termination hearing; further, GP's aunt and uncle were working on reconciling their differences at the time of the hearing. Additionally, Lilienthal testified that she believed that both GP's aunt and uncle were bonded with her and would provide care for her. The mere possibility that GP's foster family may undergo a divorce in the future does not render her current placement unstable or not in GP's best interest. Respondent has continuing mental health issues, but has not been attending CMH treatment as her relationship with the child's father has progressed. Respondent's case-service plan called for treatment at CMH to address her emotional stability, and respondent has not been compliant with this plan. *White*, 303 Mich App 701, 714. The trial court also noted an ongoing concern about potential domestic violence due to respondent's volatility and mental illness.

Reviewing the record as a whole, the trial court did not clearly err by finding, by a preponderance of the evidence, that termination was in the best interest of the child. *Moss*, 301 Mich App at 80, 83.

Affirmed.

/s/ Mark T. Boonstra
/s/ Pat M. Donofrio
/s/ Elizabeth L. Gleicher