

STATE OF MICHIGAN
COURT OF APPEALS

In re Z. J. LAVALLIS, Minor.

UNPUBLISHED
February 19, 2015

No. 322864
Oakland Circuit Court
Family Division
LC No. 14-818318-NA

Before: BECKERING, P.J., and JANSEN and BOONSTRA, JJ.

PER CURIAM.

Respondent R. Maddix appeals by right the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (j), (k)(iii), (k)(iv), (k)(v), and (l). We affirm.

Respondent inflicted serious injury on another child in 2008, for which she was convicted of second-degree child abuse, and which resulted in the termination of her parental rights to two other children. Respondent gave birth to the instant child in 2014, and was imprisoned for violating her probation shortly thereafter. The trial court terminated respondent's parental rights to the instant child at the initial dispositional hearing.

On appeal, respondent does not dispute the existence of the statutory grounds for termination, which were established by her no contest plea in the trial court. Rather, she challenges only the trial court's determination that termination of her parental rights was in the child's best interests. The trial court's decision regarding the child's best interests is reviewed for clear error. MCR 3.977(K); *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). "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, 296-297; 690 NW2d 505 (2004).

"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). Whether termination is in the child's best interests is determined by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The court may consider a variety of factors, including the parent's parenting ability, *In re Jones*, 286 Mich App 126, 129-130; 777 NW2d 728 (2009), the child's bond to the parent, *In re BZ*, 264 Mich App at 301, the child's safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011), the parent's history of substance abuse or mental health issues, *In re*

AH, 245 Mich App 77, 89; 627 NW2d 33 (2001), whether the parent can provide a permanent, safe, and stable home, *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012), the advantages of a foster home over the parent's home, *In re Foster*, 285 Mich App 630, 634-635; 776 NW2d 415 (2009), and the child's "need for permanency, stability, and finality," *In re Gillespie*, 197 Mich App 440, 446-447; 496 NW2d 309 (1992).

We reject respondent's challenges to various factual findings by the trial court. Respondent argues that the trial court erred in finding that there was not a parent-child bond. The evidence showed that the child was removed from respondent's custody approximately two weeks after the child's birth and that respondent had extremely limited contact with the child afterward. During the few supervised visits, respondent mostly sat and cried and the baby mostly slept. Given the limited contact between respondent and the child, and the limited interaction during visits, the trial court did not clearly err in finding that "there really is no parental bond between [the child] and [respondent]."

Respondent argues that the trial court inappropriately relied on Shannon Conz's psychological evaluation report because Conz admitted that she did not administer any tests during her evaluation of respondent. Conz testified, however, that the lack of testing did not preclude her from making an evaluation because she had the benefit of prior records and information relating to respondent. Considering that other historical information regarding respondent was available to Conz, the trial court did not clearly err in giving credence to her opinions and report.

Respondent argues that the trial court improperly speculated that she might not be paroled from prison in October 2014. The trial court found that "[a]t the very best circumstance, [respondent] might be released from incarceration in October. That's not certain. She could spend as long as three more years of incarceration." Respondent testified that she had received a favorable report from the parole board, but admitted that there were other requirements she needed to successfully complete before she could be paroled, and that her maximum discharge date was in October 2017. In light of this evidence, the trial court's findings regarding respondent's release date were not clearly erroneous.

Respondent argues that the trial court erred by ignoring evidence of her recent progress in addressing her mental health issues. The trial court recognized that respondent "has had an extremely tragic life . . . [that] has severely impacted her ability to parent." Despite respondent's claims that she had made efforts to address her mental health issues, the trial court found that respondent was "obviously still dealing with all of those . . . issues" and "was not in a position at this point to be stable enough to parent this child." The court observed that respondent was presently incarcerated, that she had exercised poor judgment by having contact with her other child in violation of a court order, and that she was still involved in a questionable relationship with the instant child's father, V.L., despite evidence that he was verbally and emotionally abusive toward respondent and was a known drug dealer.

The trial court did not clearly err by finding that respondent's long-term mental health issues had not been resolved. The evidence showed that due to poor judgment and a lack of impulse control, respondent took out her frustrations on her previous child, then 18 months old, and caused severe permanent injury. Respondent's parental rights to that child and another child

were subsequently terminated. Respondent continued to demonstrate poor judgment that affected her parenting ability. She had a third child even though she lacked stable housing and was not able to support herself and the child, and she relied on a known drug dealer for support. Instead of contacting the police when she believed that her other child was in danger, she had unauthorized contact with the child despite knowing that it would jeopardize her probationary status. That led to respondent's imprisonment, leaving her unable to care for the instant child for at least several months if not years. Respondent also professed a lack of understanding regarding why the instant child became a court ward. In the meantime, the child was in a stable foster home and was doing well there.

Considering all of the relevant circumstances, the trial court did not clearly err by finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Jane M. Beckering

/s/ Kathleen Jansen

/s/ Mark T. Boonstra