

STATE OF MICHIGAN
COURT OF APPEALS

In re N. S. TARVER, Minor.

UNPUBLISHED
April 23, 2015

No. 323797
Wayne Circuit Court
Family Division
LC No. 13-514415-NA

Before: BECKERING, P.J., and CAVANAGH and SAAD, JJ.

PER CURIAM.

Respondent father appeals as of right an order terminating his parental rights under MCL 712A.19b(3)(a)(ii) (desertion), (g) (failure to provide proper care and custody), (h) (imprisonment for more than two years), and (j) (likelihood of harm if returned). We affirm.

Respondent was identified as the biological father of this child after she was removed from her mother's custody in September 2013 following reports of physical abuse. The child was almost 12 years old. A petition to terminate respondent's parental rights was subsequently filed. In 2004, respondent had been convicted of numerous counts of criminal sexual conduct, including five counts of first-degree criminal sexual conduct (CSC I) against victims under the age of 13 and four counts of CSC I against a victim between the ages of 13 and 16. This child's mother was one of respondent's victims and this child was conceived through that rape. Respondent's earliest release date from prison is 2033. He had never met this child, provided no financial support for her, and had no relationship with her. This appeal follows the termination of his parental rights.

Defendant argues that a statutory ground for termination of his parental rights was not established. We disagree.

We review for clear error the trial court's decision that a ground for termination has been proven by clear and convincing evidence. See *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A decision is "clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

Only one statutory ground must be established to terminate a parent's parental rights. *In re Trejo*, 462 Mich at 360. In this case, at minimum, the trial court did not clearly err in concluding that MCL 712A.19b(3)(h) was proven by clear and convincing evidence. MCL 712A.19b(3)(h) provides:

The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, 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.

Respondent was sentenced in 2004 to 30 to 60 years' imprisonment for numerous counts of CSC. While respondent is correct that incarceration alone is not a sufficient ground for termination, *In re Mason*, 486 Mich 142, 160; 782 NW2d 747 (2010), in this case additional evidence established that respondent never provided for the child's proper care and custody and there was no reasonable expectation that he would be able to do so within a reasonable time considering the child's age. Respondent argues that he should have been given the opportunity to parent and benefit from services, but reunification efforts are not required when, as in this case, termination is the agency's goal. See *In re Moss*, 301 Mich App 76, 91; 836 NW2d 182 (2013).

Respondent also argues that termination of his parental rights was not in the child's best interests. After review of the trial court's decision for clear error, we disagree. See *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014).

"In deciding whether termination is in the child's best interests, the court may consider the child's bond to the parent, the parent's parenting ability, 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*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (internal citations omitted). "The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption." *In re White*, 303 Mich App at 714.

In this case, respondent had never met the child, who was almost 12 years old and had serious emotional problems. Respondent is in prison for numerous CSC convictions, including for nine counts of CSC I committed against girls who were about the same age as this child. Considering the record evidence, the trial court did not clearly err in concluding that termination of respondent's parental rights was in this child's best interests.

Affirmed.

/s/ Jane M. Beckering
/s/ Mark J. Cavanagh
/s/ Henry William Saad