

STATE OF MICHIGAN
COURT OF APPEALS

In re K. C. CRITTENDON, Minor.

UNPUBLISHED
October 22, 2015

No. 326308
Macomb Circuit Court
Family Division
LC No. 2012-000424-NA

Before: FORT HOOD, P.J., and CAVANAGH and K. F. KELLY, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

Respondent argues that the trial court erred when it terminated her parental rights because a statutory ground for termination was not established by clear and convincing evidence. We disagree.

To terminate parental rights, the trial court must find at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review for clear error “the trial court’s factual findings and ultimate determinations on the statutory grounds for termination.” *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A decision is clearly erroneous if, although supported by evidence, this Court is left with a firm and definite conviction that a mistake was made. *Id.* at 709-710.

In this case, the trial court did not clearly err in concluding that clear and convincing evidence supported termination of respondent’s parental rights under MCL 712A.19b(3)(c)(i), which provides:

(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.

At the time the child was removed from respondent's care her parental rights had been terminated to four other children because she failed to comply with a court ordered treatment plan and respondent was unable to provide proper care for this child. Contrary to respondent's claim on appeal, she was not in substantial compliance with this treatment plan by the termination hearing and was unable to demonstrate that she could provide proper care of the child.

Respondent's parent-agency agreement required her to visit the child, attend hands-on parenting instruction through Infant Mental Health, and obtain suitable housing and employment. The record shows that respondent attended only 16 of 39 Infant Mental Health sessions and her participation was considered unsatisfactory. Likewise, she attended only 45 of 102 available visits with the child. Although respondent argues that she lacked transportation, the record shows she was initially provided bus tickets and subsequently given rides to and from all visits.

Respondent argues that she needed more assistance and that DHHS did not offer her enough help. This argument is unsupported by the trial court's record. Although respondent never provided documentation of her learning disability, her psychological evaluation revealed that she had a low IQ. Respondent was given hands-on sessions with a mental health therapist because of her cognitive limitations. In addition to being provided bus tickets, she was offered rides to make sure she could get where she needed to go. The evaluating psychologist did not recommend any additional services for respondent. Moreover, respondent's claim that the court terminated her parental rights because of her cognitive impairment is unsupported by the evidence. The court terminated respondent's parental rights because she was unable to demonstrate that she could properly care for and parent the child. While respondent's cognitive impairments contributed to her parenting issues, they were not the reason her parental rights were terminated.

Contrary to respondent's claim on appeal, she never demonstrated the ability to maintain suitable housing. She lived in five different places throughout the time the minor child was in foster care. Respondent requested a home study in each place she lived but then refused to make the home available for assessment, and gave a different excuse each time. By the time of the termination hearing respondent had moved into a two-bedroom condominium that was being leased to a police officer. As the trial court noted, respondent's name was not on the lease agreement so she had no legal right to live there. Thus, respondent had not shown the ability to maintain independent, stable housing. Also, although the court did not doubt that respondent was receiving SSI income, she never provided documentation of this income or documentation of employment. Since respondent was unable to demonstrate that she could provide proper care and custody for the child, termination of her parental rights was proper under MCL 712A.19b(3)(c)(i). Because only one statutory ground must be established by clear and convincing evidence, *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009), we need not address whether the trial court clearly erred in finding that MCL 712A.19b(3)(g) was also established; nevertheless, we conclude that the trial court did not clearly err.

Respondent also argues that the trial court clearly erred when it concluded that termination was in the child's best interests. We disagree.

A trial court must order the termination of parental rights if a statutory ground for termination is established by clear and convincing evidence and the trial court finds by a preponderance of the evidence that termination is in the child's best interests. *In re White*, 303 Mich App at 713. We review for clear error a trial court's finding that termination of a parent's parental rights is in the child's best interests. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). In deciding whether termination is in a child's best interests, the court may consider the parent's parenting ability, *id.* at 129-130; the child's bond to the parent, *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); the child's safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011); whether the parent can provide a permanent, safe, and stable home, *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012); and the child's "need for stability, and finality," *In re Gillespie*, 197 Mich App 440, 446-447; 496 NW2d 309 (1992).

The trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. Respondent failed to comply with her service plan and failed to demonstrate that she had the ability to parent the child. She also was unable to maintain suitable, independent housing. The minor was a young child, had been in foster care her whole life, and was doing well there. Respondent's claim that there was little likelihood of the child's adoption is unsupported by the record as the foster parents expressed an interest in adopting her. It is likely the minor child will have a stable situation after parental rights are terminated. Although respondent claims that she felt a bond with the child, the child did not know respondent as her mother. It appeared from the record evidence that the child would have had to wait an indeterminate period of time to see if respondent would ever be able to provide proper care and custody and that termination would provide the child with permanency, stability, and finality. Under the circumstances of this case, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. See *In re Jones*, 286 Mich App at 129.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Mark J. Cavanagh
/s/ Kirsten Frank Kelly