

STATE OF MICHIGAN
COURT OF APPEALS

In re TANKERSLEY, Minors.

UNPUBLISHED

April 12, 2016

No. 328733

Wayne Circuit Court

Family Division

LC No. 14-518269-NA

Before: GLEICHER, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(i), (g), (j), (k)(iii), and (k)(vi). We affirm.

On appeal, respondent does not challenge the statutory grounds for termination, only asserting that the trial court erred when it found that termination of her parental rights was 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[ren]'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). "[W]hether termination of parental rights is in the best interests of the child[ren] must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). This Court reviews the court's determination regarding the children's best interests for clear error. *In re Olive/Metts*, 297 Mich App at 40. "In deciding whether termination is in the child[ren]'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." *Id.* at 41-42 (internal citations omitted).

The trial court did not err in its best-interest determination. Respondent's 14-month-old daughter suffered multiple unexplained injuries resulting in her death while solely in respondent's care. The child was subjected to blunt force trauma, and her death was ruled a homicide. Respondent never provided a plausible explanation of how the child sustained any of her injuries; therefore, the evidence established that the safety and well-being of the other young children could not be reasonably assured in light of the severe abuse of this child. *In re Van Dalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011). Respondent denied intentionally harming her child despite significant evidence to the contrary. She externalized blame for the child's death. Respondent's treatment of the minor child is probative of how she is likely to treat her other children. *In re LaFrance Minors*, 306 Mich App 713, 730; 858 NW2d 143 (2014),

quoting *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973). Respondent's inability to control violent impulses when presented with the ordinary demands of parenting presented a risk of harm to the other children who were young and vulnerable.

Respondent argues that the trial court should have given her more time to evaluate whether she was able to properly parent and she should have been able to engage in a treatment plan since she had not yet been convicted of homicide, although she faced charges stemming from the child's death. This argument is without merit. First, we note that petitioner was not required to provide reunification services here. The petitioner "is not required to provide reunification services when termination of parental rights is the agency's goal." *In re Moss*, 301 Mich App at 91 (citation omitted). Moreover, the trial court took great pains to ensure that respondent could undergo a psychological evaluation and that the result of the evaluation could be used in making its decision regarding the children's best interests.¹ The results showed that no treatment plan could have improved respondent's judgment and kept the children safe given her history. Moreover, even if she were acquitted of homicide charges in a criminal court, she entered a no contest plea regarding the statutory grounds for termination. Notably, the Court focuses on *the child*—not the parent—when reviewing best interests. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). Here, the safety of the two surviving children and their protection from respondent had to be the priority. Thus, regardless of the outcome of respondent's criminal case and irrespective of any bond she shared with the children, termination of parental rights was in the best interests of the children.

Respondent also had history of domestic violence and marijuana use. She admitted using marijuana daily since she was 16 years old and all three of her children were born with marijuana in their systems. Respondent did not believe her marijuana use contributed to poor parenting even though it may have impaired her judgment. This impaired judgment was evident when respondent revealed that she did not adequately supervise her children while they were in the bathtub and exposed them to risk of drowning. Moreover, respondent's psychological evaluation showed a poor prognosis for altering her behavior, indicating that the children would not be safe in her care. The fact that the termination would provide the children with stability and permanency also supports the determination that termination was in their best interests.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood

¹ Respondent asserts that her interview was incomplete because the psychologist did not observe respondent with her children. However, respondent was incarcerated at the time of the interview, so this was not possible.