

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of R. JORDAN, Minor.

UNPUBLISHED
January 28, 2014

No. 316014
Ingham Circuit Court
Family Division
LC No. 12-001790-NA

Before: SAWYER, P.J., and BECKERING and SHAPIRO, JJ.

Per Curiam.

Respondent appeals as of right the order terminating her parental rights to her daughter under MCL 712A.19b(3)(g), (j), and (l). We affirm.

Respondent resided at a homeless shelter for mothers when her child was born. Respondent and the minor child's father¹ have a son together who was born in March 2011, but their parental rights to that child were terminated by the state of Texas after they left the state and essentially abandoned the child when he was three months old. In the present case, the minor child was removed from respondent's care within hours after a home visit by two DHS workers in November 2012. The initial petition sought jurisdiction and termination of respondent's parental rights to the minor child at initial disposition.

This Court reviews for clear error the trial court's factual findings in an order to terminate parental rights. See MCR 3.977(K); *In re Rood*, 483 Mich 73, 90; 763 NW2d 587 (2009). "[T]he preponderance of the evidence standard applies to the best-interests determination." *In re Moss Minors*, 301 Mich App 76, 83; ___ NW2d ___ (2013).

"A finding 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." *Rood*, 483 Mich at 91, quoting *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (quotation marks omitted). This Court must give regard "to the special opportunity

¹ The trial court also terminated the parental rights of the child's father. That decision has not been challenged on appeal.

of the trial court to judge the credibility of the witnesses who appeared before it.” *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

“Only one statutory ground need be established by clear and convincing evidence to terminate a respondent’s parental rights, even if the court erroneously found sufficient evidence under other statutory grounds.” *In re Ellis*, 294 Mich App at 32.

This Court reviews de novo a trial court’s interpretation of statutes and court rules. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

The record supports the conclusion that respondent failed to properly care for and parent the minor child. Respondent had persistent issues of inability to anticipate the child’s needs, cognitive limitations, domestic violence, limited parenting skills, and an unfit environment in the home. The record supports the conclusion that respondent was offered services in this case as well as in previous proceedings regarding her other child, but that she failed to comply with, or benefit from, those services. Evidence presented at trial revealed that when faced with a situation in which her child was in danger of physical injury, respondent did nothing to protect her child. Testimony of various witnesses established a deeply-felt concern that respondent would not be able to anticipate the needs of her child, and that her cognitive deficits could place the child in danger. Moreover, the record shows that respondent continued to have a relationship with and lives with the child’s father, despite DHS’ objections to that arrangement. The child’s father has engaged in domestic violence toward respondent in the past; he was recently released from a forensic psychiatry center where he was treated for a year after being deemed incompetent in a criminal proceeding and being found not guilty by reason of insanity. He has been diagnosed with schizophrenia and takes multiple medications for his condition, yet he testified he had not been to see a doctor for follow-up in the month after his release from the forensic psychiatry center. According to respondent, he becomes “very aggressive” when not taking his medications. When DHS workers discussed how a relationship with this man was inappropriate and unsafe for her and her child, respondent assured them she would not continue to see him, saying her child was more important. Yet, the record reflects respondent continued to date and live with him.

The foregoing evidence of record clearly supports the trial court’s findings of a statutory basis for termination under MCL 712A.19b(3)(g) (failure to provide proper care or custody) and (j) (reasonable likelihood of harm to the child if returned to parent). See *In re Hudson*, 294 Mich App 261, 266; 817 NW2d 115 (2011) (“Evidence of how a parent treats one child is evidence of how he or she may treat the other children.”); *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005) (“[A] parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent’s custody.”). Accordingly, the trial court did not commit clear error with respect to its rulings.

Having concluded that the trial court did not clearly err by finding a statutory ground for termination under either MCL 712A.19b(3)(g) or (j), we need not address the trial court’s additional grounds for termination. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). Nevertheless, we also find that the record supports the trial court’s findings that MCL 712A.19b(3)(l) constituted additional grounds for termination. Respondent’s parental rights to a

sibling of the minor child were terminated, and previous attempts to rehabilitate respondent in Texas were unsuccessful.

Furthermore, on the record before us, the trial court's finding that termination was in the minor child's best interests does not leave us with "a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App at 459. The record reflects that respondent was not able to benefit from parenting classes and instruction from a visiting nurse over the course of several months. Respondent did not demonstrate she could successfully anticipate the needs of her child or keep the child safe. Moreover, respondent demonstrated poor judgment in continuing a relationship with the child's father, who had been violent toward her in the past and whose mental stability was in question.

Respondent's argument that the trial court clearly erred because petitioner failed to offer adequate reunification services in light of her intellectual limitations is without merit. "Generally, when a child is removed from the parents' custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan." *In re HRC*, 286 Mich App at 462. However, a petitioner is "not required to provide reunification services when termination of parental rights is the agency's goal." *Id.* at 463.

The state of Texas terminated respondent's parental rights to the minor child's sibling. Petitioner's initial petition sought termination of respondent's parental rights to the minor child. Therefore, respondent was not even entitled to services in the present case, given that termination was petitioner's goal and the case involved the exceptional circumstances enumerated in MCL 712A.19a(2)(c).

On the record before us, the trial court did not clearly err by finding that reasonable reunification efforts were made, but were unsuccessful as to respondent. DHS officials believed the respondent was receiving adequate services at the homeless shelter for mothers where she lived for five months. Respondent chose to leave that facility early, despite staff's efforts to persuade her to stay. Respondent was also offered supervised parenting time. Moreover, respondent was offered services in proceedings involving her other child in Texas, but did not follow through with those and left the state before the case was resolved.

Respondent's argument that she should have been afforded special consideration for her cognitive limitations is unconvincing. Michigan law provides that even Americans who claim protection under the American's with Disabilities Act, 42 USC 12101 *et seq.*, are only entitled to reasonable reunification efforts. *In re Terry*, 240 Mich App 14, 26-27; 61 NW2d 563 (2000). Cognitive disabilities do not reduce a parent's burden to demonstrate the ability to provide basic care for a child. At some point, if the parent is unable to demonstrate benefit from services, the needs of the child must prevail over the needs of the parent. *Id.* at 28.

Similarly, respondent's contention that the trial court based its findings on mere speculation and conjecture is without merit. Evidence presented at trial included first-hand accounts of witnesses who expressed concern about respondent's parenting ability. Two witnesses, for example, testified they witnessed respondent's baby being scratched and hit in the face and head area by another child while respondent failed to intervene.

Termination of respondent's parental rights was in the child's best interests. Reversal is unwarranted.

Affirmed.

/s/ David H. Sawyer
/s/ Jane M. Beckering
/s/ Douglas B. Shapiro