

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 10, 2010

In the Matter of D. E. SHORT, Minor.

No. 296325
Gratiot Circuit Court
Family Division
LC No. 08-007328-NA

Before: M. J. KELLY, P.J., and MARKEY and OWENS, JJ.

PER CURIAM.

Respondent father appeals by right the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(b)(i), (g), and (j). Because we conclude that there were no errors warranting relief, we affirm.

On appeal from termination of parental rights proceedings, this Court reviews the trial court's findings for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

On appeal, respondent contends that, given the testimony by respondent's experts, petitioner failed to prove any of the grounds for termination. Essentially, respondent argues that the trial court erred by failing to give sufficient weight to respondent's witnesses who testified that he had made significant progress and would be able to be a proper parent for the minor child within a reasonable time. Thus, respondent further argues, the evidence showed that there was not a reasonable likelihood that the minor would suffer from injury or abuse in the foreseeable future if placed with respondent; there was a reasonable expectation that respondent would be able to provide proper care or custody within a reasonable time; and there was not a reasonable likelihood, based on respondent's conduct or capacity, that the minor would be harmed if she were returned to respondent's home.

The trial court generally found petitioner's witnesses to be more credible than the witnesses for respondent. The court especially found the psychological evaluation and testimony of Dr. Simons and the testimony of JT, the minor's mother, to be credible and consistent. Both described respondent as an individual who had tortured and killed animals, sexually and physically abused his young daughter, and physically injured JT.

In contrast, the court found that respondent had not testified truthfully and found that the testimony of respondent's professional witnesses were not credible. A psychologist hired by respondent for an evaluation opined that respondent should have supervised visitation with the child, although he had not interviewed or even met the minor child, which is a violation of APA protocols for child protection cases. The role of a second psychologist who testified for respondent was to provide therapy and counseling for respondent and he knew only what respondent had told him. The trial court discounted the recommendations of both of these psychologists and gave little weight to their testimony. In reviewing an appeal from a termination of parental rights, this Court must give due regard to the special opportunity of the trial court to judge the credibility of the witnesses who appear before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Accordingly, we cannot agree with respondent's contention that the trial court should have given more weight to respondent's experts' testimony.

In any event, the testimony of JT and Dr. Simons, coupled with respondent's admissions and no contest pleas provided sufficient support for the trial court to find clear and convincing evidence to support each statutory ground for termination. Respondent admitted or pleaded no contest to acts of violence against the minor child and her mother, and incidents of sadistic abuse of animals, and had a long history of psychiatric treatment, medications, and hospitalizations, which had produced no sign of improved behavior. The trial court did not clearly err in finding the statutory grounds had been proven.

The court also did not clearly err in finding that termination of respondent's parental rights was in the minor child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

The trial court found that all the credible evidence supported a finding that termination of respondent's parental rights was in the child's best interests. Respondent's expert had never met the minor child and was not qualified to give an opinion about her best interests. Respondent's testimony was self-serving and often untruthful. The minor child was psychologically fragile and damaged by her experiences with respondent, and she required long-term therapy. No evidence on the record challenges the trial court's finding that termination of respondent's parental rights was in the minor child's best interests.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Kelly
/s/ Jane E. Markey
/s/ Donald S. Owens