

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
February 15, 2011

In the Matter of E. C. BALLWEG, Minor.

No. 298901  
Chippewa Circuit Court  
Family Division  
LC No. 10-013868-NA

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Before: OWENS, P.J., and MARKEY and METER, JJ.

PER CURIAM.

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

Respondent first argues that the trial court clearly erred in finding that the statutory grounds for termination were established by clear and convincing evidence. In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K). Both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the best-interests determination are reviewed for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "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." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (internal citations and quotation marks omitted).

The trial court did not clearly err in finding that respondent failed to provide proper care and custody for the child. MCL 712A.19b(3)(g). The home was filthy and littered with animal feces, respondent did not clean or sterilize the child's bottles, the child was treated for chronic and severe diaper rash, and there were several instances of improper supervision and evidence of excessive alcohol use and violence in the home. The child sustained numerous injuries in her first few months of life, including broken ribs, a bump on her forehead, a forehead puncture, a broken clavicle, and various bruises. Respondent maintains that she had no knowledge of how the child was injured and therefore cannot be held responsible for the injuries. Nevertheless, her apparent lack of knowledge regarding such a large number of injuries is further evidence of improper supervision. Petitioner clearly established that respondent did not provide proper care and custody for the minor child.

The trial court also did not clearly err in finding that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time,

considering the child's young age. *Id.* Respondent avoided Child Protective Services (CPS) by not answering the door, by not allowing CPS workers into her home when she did answer the door, and by not allowing CPS workers to see her whole home when she did allow them into the house. She delayed starting a parent nurturing program and a program called "Early On" and did not follow instructions when she did start the parent nurturing program. Further, she gave different versions of when a head injury occurred and untruthfully said that she brought the injury to the parenting instructor's attention when she did not. Respondent did not take the parenting instructor's advice about burping and there was evidence that she did not otherwise take sufficient positive steps to learn better parenting and protect the child. Further, the child became hysterical at supervised visitation with respondent, although the child did fine at visitation with her father. Based on this evidence, the trial court did not clearly err in finding that respondent would not be able to provide proper care and custody within a reasonable time and that § (g) was established by clear and convincing evidence.

The trial court also did not clearly err in finding that § (j) was established by clear and convincing evidence. Indeed, there was a reasonable likelihood, based on respondent's conduct or capacity, that the child would be harmed if she were returned to respondent's home. MCL 712A.19b(3)(j). While in respondent's care, the child was injured several times in her first three months of life and there was additional evidence, as noted above, of improper care that posed a danger to the child. There was ample evidence to support the trial court's finding that § (j) had been established.

Given our conclusions with regard to §§ (g) and (j), we need not decide whether §§ (b)(i) and (b)(ii) were established by clear and convincing evidence. MCL 712A.19b(3); see also *In re Fried*, 266 Mich App 535, 540-541; 702 NW2d 192 (2005) (termination warranted if *at least one* of the statutory grounds for termination has been established and termination is in the child's best interests).

Respondent also argues that the trial court erred in its best-interests determination. "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). Given the reasonable fear of injury and harm to the young child if she were returned to respondent and the lack of bond between them, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Donald S. Owens  
/s/ Jane E. Markey  
/s/ Patrick M. Meter