

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
April 12, 2011

In the Matter of B. R. BENEDICT, Minor.

No. 300996
Saginaw Circuit Court
Family Division
LC No. 10-032603-NA

Before: O'CONNELL, P.J., and K. F. KELLY and RONAYNE KRAUSE, JJ.

PER CURIAM.

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

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re B and J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). This Court reviews the lower court's findings under the clearly erroneous standard. MCR 3.977(K); *In re Mason Minors*, 486 Mich 142, 152; 782 NW2d 747 (2010); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999); *B and J*, 279 Mich App at 17. A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses. *Mason*, 486 Mich at 152; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *B and J*, 279 Mich App at 17-18.

The trial court did not clearly err in finding clear and convincing evidence to terminate respondent's parental rights to the minor child B. R. Benedict under subsections (i) and (l). In 2006, a Children's Protective Services (CPS) case was opened with regard to an older child, C. Cusac, due to severe environmental neglect and lack of food. Respondent was offered Families First and the parent mentor program, but she made minimal progress. In 2008, she failed to follow through on her substance abuse assessment and was terminated from counseling. She did complete parenting classes, but the instructor did not recommend reunification. Between December 2007 and March 2008, respondent completely failed to visit this child. Her rights to C. Cusac were terminated under MCL 712A.19b(3)(c)(i), (g), and (j) in 2008.

The above facts satisfy both MCL 712A.19b(3)(i) and (l) as to B. R. Benedict in this case. Subsection (3)(l) merely requires a prior termination resulting from proceedings under the child protection laws. Subsection (3)(i) additionally requires that the prior termination be "due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the

parents have been unsuccessful.” The facts in C. Cusac’s case satisfy both standards, as the trial court found.

Whether MCL 712A.19b(3)(m) was established is not as clear. However, only one subsection need be proven by clear and convincing evidence to terminate parental rights. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Because the other two subsections were established, we need not consider whether subsection (3)(m) was also established.

Next, respondent argues that the trial court clearly erred in finding that termination was in the infant B. R. Benedict’s best interest. We disagree. Respondent correctly notes that her participation and performance improved with B. R. Benedict over that with C. Cusac. She attended visits consistently with B. R. Benedict, and reports of their interactions were mostly positive. Respondent’s living situation was apparently improved. She attended parenting classes and some counseling and took medication for her bipolar disorder. We do not mean to trivialize these efforts, but she also repeated the same pattern of instability and lack of follow-through she had demonstrated with her other children. She did not attend the final hearing in this case. Previously, she failed to schedule her psychological evaluation and to give Cathedral Counseling her phone number after being dismissed from Westlund Counseling, apparently for nonparticipation. The evaluating psychologist opined that respondent would probably need monitoring to care for her baby. The trial court did not clearly err in finding that respondent would not be able to provide the child with adequate care within a reasonable time.

Affirmed.

/s/ Peter D. O’Connell
/s/ Kristen Frank Kelly
/s/ Amy Ronayne Krause