

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
August 16, 2012

In the Matter of E. E. PAEZ, Minor.

No. 309875  
Saginaw Circuit Court  
Family Division  
LC No. 12-033328-NA

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Before: SAAD, P.J., and SAWYER and CAVANAGH, JJ.

PER CURIAM.

Respondent appeals the trial court's order that terminated her parental rights to her minor child pursuant to MCL 712A.19b(3)(g), (i), (j), and (l). We affirm the court's order in which it ruled that at least one statutory ground supported termination, but vacate the court's best interest analysis and remand for further consideration of that issue.

Respondent argues that the trial court clearly erred by terminating her parental rights because clear and convincing evidence did not establish a statutory ground for termination. A trial court's finding of whether a statutory ground for termination has been proven by clear and convincing evidence is reviewed for clear error. MCR 3.977(K); *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004). "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." *Id.* at 296-297.

The record contains clear and convincing evidence to support the trial court's findings that respondent's parental rights to three siblings of the child were terminated due to serious neglect and that the mother's parental rights to another child were terminated under 2(b). MCL 712A.19b(3)(i) and (l) provides:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

\* \* \*

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.

\* \* \*

(l) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter or a similar law of another state.

Section 2(b) of this chapter allows the trial court to take jurisdiction over minor children for reasons such as failure of the parents to provide proper care or an unfit home, abandonment by the parents, or neglect by the parents. MCL 712A.2(b).

Court records of the prior termination proceedings involving respondent's other three children show that respondent's cocaine problems hindered her ability to parent those children. Respondent was provided with many different services to rehabilitate her, but still chose to use cocaine and unprescribed anti-depressants while she was pregnant with E.E. Accordingly, clear and convincing evidence supported termination under MCL 712A.19b(3)(i) and (l). Because the trial court must only determine that one statutory ground for termination was established, we need not address the other two grounds for termination.

Respondent further argues that the trial court erred in finding that termination was in the children's best interests under MCL 712A.19b(5). A trial court's decision regarding a child's best interests is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). MCL 712A.19b(5) provides, "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." Recently, in *In re Olive/Metts*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (Docket No. 306279, issued June 5, 2012), this Court reiterated that the trial court must specifically evaluate the impact of relative placement in reaching its termination decision. *Id.*, slip op at 4. "[B]ecause 'a child's placement with relatives weighs against termination under MCL 712A.19a(6)(a),' the fact that a child is living with relatives when the case proceeds to termination is a factor to be considered in determining whether termination is in the child's best interests." *Id.*, quoting *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). This Court stated that "[a] trial court's failure to explicitly address whether termination is appropriate in light of the children's placement with relatives renders the factual record inadequate to make a best interests determination and requires reversal." *Id.*, citing *In re Mason*, 486 Mich at 163-164; *In re Mays*, 490 Mich 993, 993; 807 NW2d 304 (2012).

Here, a maternal aunt was caring for E.E. at the time of the termination hearing, but the trial court never explicitly addressed whether termination was appropriate in light of the child's placement with his maternal aunt. Therefore, we remand for consideration of whether termination is appropriate in light of the child's placement with the maternal aunt.

Affirmed in part, vacated in part, and remanded for further proceedings. We do not retain jurisdiction.

/s/ Henry William Saad  
/s/ David H. Sawyer  
/s/ Mark J. Cavanagh