

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
May 23, 2013

In the Matter of WASHINGTON, Minors.

No. 313771  
Kent Circuit Court  
Family Division  
LC No. 12-050986-NA;  
12-050987-NA;  
12-050988-NA;

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Before: SERVITTO, P.J., and WHITBECK and SHAPIRO, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(g) (failure to provide proper care), (j) (reasonable likelihood the child will be harmed if returned to parent), and (l) (rights to another child previously terminated). We affirm because the trial court did not clearly err in finding grounds for termination or that termination is in the minor children's best interests.

A trial court's factual findings in terminating parental rights are reviewed under the clearly erroneous standard. MCR 3.977(K). A trial court's finding that a ground for termination has been established is reviewed under the clearly erroneous standard. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). To terminate parental rights, a trial court must find the existence of a statutory ground for termination in MCL 712A.19b has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Only one statutory ground for termination must be established. *Trejo Minors*, 462 Mich at 360.

On appeal, respondent does not dispute that the trial court properly found a ground for termination under MCL 712A.19b(3)(l), arguing only that "[t]he Court erred in terminating Appellant's rights under [MCL 712A.19b(3)(l)] in that despite the actuality of a prior termination mandating termination, it was not in the children's best interests . . . ." Respondent's parental rights to another child were previously terminated as a result of proceedings under MCL 712A.2(b). Thus, the trial court did not clearly err in finding a ground for termination under MCL 712A.19b(3)(l). Because only one statutory ground for termination must be established, *Trejo Minors*, 462 Mich at 360, the remainder of respondent's arguments are moot. "An issue is moot where circumstances render it impossible for the reviewing court to grant any relief." *In re Wayne Co Election Comm*, 150 Mich App 427, 432; 388 NW2d 707 (1986).

Regardless, we have reviewed respondent's claims and find that the trial court did not clearly err in finding grounds for termination under MCL 712A.19b(3)(g) and (j). MCR 3.977(K); *Trejo Minors*, 462 Mich at 356-357. Respondent suffers from severe mental illness that prevents her from properly caring for the minor children. She has been hospitalized repeatedly and threatened to commit suicide. Her doctor expressed surprise that she does not have a legal guardian. There is a reasonable likelihood the children will be harmed if returned to respondent, and no reasonable likelihood that she will be able to provide proper care within a reasonable time.

Respondent also argues that the termination of her parental rights was not in the minor children's best interests. A trial court's finding that termination is in a child's best interests is generally reviewed under the clearly erroneous standard. MCR 3.977(K); *Trejo Minors*, 462 Mich at 356-357. After a trial court has established a statutory ground for termination by clear and convincing evidence, the trial court should order termination of parental rights if termination is in the best interests of the child. MCL 712A.19b(5); *In re Beck*, 488 Mich 6, 11; 793 NW2d 562 (2010).

In this case, the trial court addressed a number of factors related to the minor children's best interests. The trial court recognized that the children were bonded to respondent. However, other factors outweighed this one. First, respondent had a history of unfavorable psychological evaluations. The trial court found that respondent would struggle to effectively parent the minor children based on her history and her ineffective parenting techniques during parenting times. Further, the court found that the children needed permanence and stability and that their foster home was more able to provide stability than respondent's home. Moreover, because of respondent's repeated hospitalizations, she had not been able to comply with parenting classes and other services provided to her. The trial court's consideration of these factors was proper. See *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009); *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *McIntyre*, 192 Mich App at 52.

While one of the factors the trial court considered did not support termination (the parent/child bond), the other factors considered by the trial court supported that termination was in the minor children's best interests. The trial court must determine the best interest of the child using evidence from the whole record. *Trejo Minors*, 462 Mich at 353. The trial court did not clearly err in finding that the termination of respondent's parental rights was in the minor children's best interests. MCR 3.977(K); *Trejo Minors*, 462 Mich at 356-357.

Respondent also argues that the trial court prematurely terminated her parental rights. Respondent's primary claim is that petitioner did not have time to provide respondent with reasonable efforts to reunify her with her children because her rights were terminated six months after the minor children were removed from her home. Generally, "petitioner must make reasonable efforts to rectify conditions, to reunify families, and to avoid termination of parental rights" *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008), except where aggravated circumstances exist, MCL 712A.19a(2).

MCL 712A.19a(2) provides, in relevant part, that:

(2) The court shall conduct a permanency planning hearing within 30 days after there is a judicial determination that reasonable efforts to reunite the child and family are not required. Reasonable efforts to reunify the child and family must be made in all cases except if any of the following apply:

\* \* \*

(c) The parent has had rights to the child's siblings involuntarily terminated.

Thus, under MCL 712A.19a(2)(c), where a parent's rights to a child's sibling have been involuntarily terminated, the parent does not have a right to any reunification efforts. *In re Smith*, 291 Mich App 621, 623; 805 NW2d 234 (2011). Here, respondent had her parental rights involuntarily terminated in regard to a child on March 23, 1999. The minor children in this case are that child's siblings. Accordingly, petitioner was not required to make any reunification efforts in this case. *Id.*; MCL 712A.19a(2).

Nevertheless, petitioner made a number of services available to respondent, which she was unfortunately not able to take full advantage of because of her repeated hospitalizations for mental illness. Those hospitalizations were caused by her suicide attempts and her failure to properly take her medication. And, "[w]hile the DHS has a responsibility to expend reasonable efforts [except where aggravated circumstances exist under MCL 712A.19a(2)] to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). Accordingly, the trial court's finding that reasonable efforts were made to reunify respondent with her children was not clearly erroneous where petitioner had no duty to make reunification efforts under MCL 712A.19a(2), petitioner nevertheless provided respondent with services, and respondent failed to take full advantage of those services. MCR 3.977(K).

Further, respondent was not entitled to a permanency planning hearing because her parental rights were terminated before 12 months elapsed after the minor children were removed and the trial court did not determine that reasonable reunification efforts were not required. MCL 712A.19a. The trial court did not prematurely terminate respondent's parental rights.

Affirmed.

/s/ Deborah A. Servitto  
/s/ William C. Whitbeck  
/s/ Douglas B. Shapiro