

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 11, 2013

In the Matter of PERRY-MASON, Minors.

No. 314257
Kent Circuit Court
Family Division
LC Nos. 11-052309-NA;
12-050047-NA

Before: MURPHY, C.J., and FITZGERALD and HOEKSTRA, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care and custody), and MCL 712A.19b(3)(j) (reasonable likelihood that the child will be harmed if returned to parent's home). Because we conclude that the trial court did not clearly err by finding that at least one statutory ground for termination was proved by clear and convincing evidence, we affirm.

The Department of Human Services (DHS) petitioned for removal of respondent's oldest child in July 2011 because respondent repeatedly engaged in acts of domestic violence with the child's father in the child's presence and there were concerns that respondent was not adequately feeding the child. Respondent's service plan identified several areas of concern including emotional stability, domestic relations, parenting skills, and communication skills. Several services were provided to respondent with regard to these areas of concern, including domestic violence counseling, individual therapy, psychiatric visits, and instruction from a parenting specialist. Respondent gave birth to another child in January 2012, who was also placed under the court's jurisdiction because of respondent's lack of progress. Despite her compliance with several aspects of the service plan, respondent continued to engage in acts of domestic violence with the children's father, left hostile and threatening voicemail messages for DHS staff and service providers, and lacked basic parenting skills. Accordingly, DHS petitioned for termination of respondent's parental rights in November 2012. Following a contested hearing, the trial court terminated respondent's parental rights in December 2012.

On appeal, respondent argues that petitioner failed to prove any of the asserted statutory grounds for termination of parental rights by clear and convincing evidence.¹

An appeal from an order terminating parental rights is reviewed under the clearly erroneous standard. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 357; 612 NW2d 407 (2000). “A finding of fact is clearly erroneous where the reviewing court is left with a definite and firm conviction that a mistake has been made.” *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). “To be clearly erroneous, a decision must strike us as more than just maybe or probably wrong” *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999) (quotation marks omitted). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights if the court also finds that termination of parental rights is in the best interests of the child. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich at 353.

In this case, respondent’s parental rights were terminated pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), which provide in pertinent part:

(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:

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child’s age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.

¹ We note that respondent does not challenge the trial court’s determination that termination of her parental rights was in the best interests of the minor children.

Regarding MCL 712A.19b(3)(c)(i), the principal conditions that led to adjudication were respondent's domestic violence and lack of parenting skills leading to concerns of malnutrition with respect to the older child. The evidence established that, despite respondent's completion of individual counseling, domestic violence therapy, and work with a parenting specialist, she still engaged in acts of domestic violence and had inappropriate emotional outbursts. Respondent left aggressive and threatening voicemail messages for her caseworkers on a monthly basis, acted inappropriately with her psychologist and his staff, and had an inappropriate emotional outburst during the permanency planning hearing on July 19, 2012. Moreover, respondent engaged in domestic violence with the children's father on five different occasions in 2011 and 2012.

With regard to parenting skills, the evidence established that respondent remained unable to multitask or watch her children without help. She reported becoming so frustrated with her children during the 1-1/2 hour visits that she felt "dizzy." Further, at the termination hearing, a parenting specialist testified that in the fall of 2012, respondent still needed help mixing the formula for her children. Additionally, respondent testified that she wanted to learn more parenting skills, including how to multitask, and "to be more aware of the proper measurements for the bottles [the minor children]." Thus, about 15 months after the initial disposition, respondent continued to engage in violent and inappropriate behavior and remained unable to perform basic parenting skills despite the multitude of services offered and attended. In view of this evidence, we conclude that the trial court did not clearly err by finding that statutory grounds for termination existed under MCL 712A.19b(3)(c)(i). *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012) (holding that where respondents failed to demonstrate sufficient compliance with or benefit from those services specifically targeted to address the primary basis for the adjudication, the trial court did not clearly err by terminating parental rights); *In re AH*, 245 Mich App 77, 87; 627 NW2d 33 (2001) (finding statutory grounds existed for termination where the respondent continued to engage in an abusive relationship).

Given our conclusion that there were statutory grounds for termination under MCL 712A.19b(3)(c)(i), it is unnecessary to address the other grounds for termination because the petitioner need only establish one ground. *In re Trejo Minors*, 462 Mich at 360. Nevertheless, we have reviewed those grounds and conclude that there was no clear error in the trial court's findings that the statutory grounds set forth in MCL 712A.19b(3)(g) and (j) were also met by clear and convincing evidence.

Affirmed.

/s/ William B. Murphy
/s/ E. Thomas Fitzgerald
/s/ Joel P. Hoekstra