

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A. M. TAYLOR, Minor.

UNPUBLISHED
May 29, 2014

No. 319384
Saginaw Circuit Court
Family Division
LC No. 11-033211-NA

Before: STEPHENS, P.J., and HOEKSTRA and METER, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court's order terminating her parental rights. We affirm.

I. BACKGROUND

The trial court terminated respondent's parental rights under MCL 712A.19b(3)(c)(i) and (3)(g) due to her inability to rehabilitate after her ten-year long addiction to opiates, notably heroin and prescription narcotics. Petitioner, Department of Human Services (DHS), initially filed a petition for temporary custody in October 2011 when respondent gave birth to a child testing positive for opiates and experiencing symptoms of withdrawal. Respondent achieved brief periods of sobriety but, the court twice removed the child because she relapsed and placed the child at risk of harm. The court held a lengthy hearing with numerous witnesses. Not even the respondent challenged her lengthy substance abuse history nor that she had been given numerous treatment opportunities and services. The respondent's appeal focuses solely on the trial court's best interest finding. It was undisputed that respondent had recently demonstrated substantial progress in achieving sobriety at her current in-patient treatment facility, Odyssey House, within the four months preceding the termination hearing. The case was by then over 20 months old.

The court found that her progress came too late to adequately demonstrate her dedication to long-term sobriety as the court and petitioner offered respondent the opportunity to participate in Odyssey House at the beginning of the case. The court recognized that the child had already spent nearly half of her life in foster care and that respondent needed anywhere from six months to a year of additional treatment. Moreover, it expressed doubt over respondent's prognosis for long-term recovery, given her long history of substance abuse, her past failures in benefitting from treatment, and that the court had to remove the child twice to protect her from respondent's neglect. The court found that respondent's abuse of prescription medications made her an unstable and inappropriate parent. And while the court acknowledged the child's attachment to

respondent, it found that the child's need for stability in her formative stage of life superseded that attachment. Moreover, the court noted that respondent did not have any relatives able or willing to care for the child. Based on the above findings, the court found that termination of respondent's parental rights was in the child's best interests.

II. BEST INTERESTS DETERMINATION

In order to terminate parental rights the trial court must first find that one of the statutory bases listed in MCL 712A.19(3) has been proven by clear and convincing evidence. MCL 712A.19b(5); MCR 3.977(H)(3)(b); *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). Once a statutory basis has been established, the trial court must then find by a preponderance of the evidence that termination of parental rights is within the best interests of the child. *In re Moss Minors*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The court may consider the entire record when making its determination. *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). Other considerations include the parent's capacity to care for the children, as well as the children's "need for permanency, stability, and finality." *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012).

Here, respondent concedes the finding of a statutory basis and only challenges the trial court's findings as to its best interests determination. Respondent argues that the court's best-interest determination was erroneous because the record clearly established that she had improved and achieved stability and sobriety by the time of the termination hearing. This Court reviews for clear error the lower court's determination regarding whether termination of a person's parental rights is in the best interests of the children. MCR 3.977(K); *In re Jones*, 286 Mich App at 129.

The court did not commit clear error in finding that termination of respondent's parental rights was in the best interests of the child. Several witnesses testified that respondent was a safe, appropriate, and loving parent when she was sober. The evidence also clearly established that respondent was an unstable and unsafe, if not outright dangerous, parent when she relapsed. Respondent admitted as much during the hearing. The record further established several incidents when respondent made extremely poor decisions regarding the child while under the influence. Notably, the child's foster parent testified that she saw respondent attempt to allow the child to swim in an inflatable pool at a time when respondent was unable to control her physical movements due to the severity of her intoxication. Thus, the outcome of the case turned on whether respondent sufficiently proved that she put her addiction behind her and took the necessary steps to achieve long-term sobriety.

Admittedly, respondent demonstrated progress and benefit from her recent treatment program at Odyssey House. However, the record also evidenced a respondent with a ten-year history of abusing opiates. Respondent testified that she completed approximately seven or eight treatment programs in that time. To date, she only demonstrated meaningful progress in her most recent treatment at Odyssey House. The Odyssey House program director acknowledged respondent's progress, but it was undisputed that respondent was only at the initial entry level of the program after approximately four months of treatment. Respondent admitted that she had moved up and down these levels, and was most recently demoted due to a policy violation that she blamed on another resident. The court was also reasonably concerned that, in spite of her

treatment, she minimized the poor condition of her child when the foster-care worker visited her home in April 2013, and also deflected responsibility onto her sister for that incident. Coupled with respondent's long history of failing to benefit from treatment, the court reasonably concluded that she was unlikely to achieve long-lasting sobriety.

Although the court acknowledged the strong parent-child bond between respondent and the child, it found that the child's need for stability and permanence superseded that attachment. Because the child is in her formative years and has a strong need for guidance, stability, safety, and permanence, and respondent cannot meet those needs, the court's best-interest determination was not clearly erroneous.

Affirmed.

/s/ Cynthia Diane Stephens

/s/ Joel P. Hoekstra

/s/ Patrick M. Meter