

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of D. L. SLOANE, Minor.

UNPUBLISHED
September 23, 2014

No. 319738
Wayne Circuit Court
Family Division
LC No. 07-463685

Before: OWENS, P.J., and JANSEN and O'CONNELL, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) (failure to provide proper care and custody), (i) (prior termination due to abuse of sibling with failed attempts at rehabilitation), and (j) (child will likely be harmed if returned to parent's care). Because we conclude the record supports termination of respondent's rights on at least two grounds, we affirm.

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "We review the trial court's determination for clear error." *Id.* "A finding is 'clearly erroneous' if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

The record confirms that the trial court properly terminated respondent's parental rights under MCL 712A.19b(3)(g) and (j). Respondent's parental rights were previously terminated to five children because they were improperly supervised and one or more of them was subjected to sexual abuse, and respondent was using drugs. There was no evidence that respondent resolved the issues that caused the earlier terminations. To the contrary, the record demonstrates that the issues continued. First, respondent admitted using marijuana while pregnant with this minor child. Next, respondent was involved in a domestic violence incident with the child's father, who shot a rifle at a house while respondent and the minor child were inside. In addition, respondent put the child's safety at risk by showing disregard for court orders. She admitted absconding from probation following her criminal conviction for child abuse and left Michigan with the child in June 2013 just after a termination petition had been filed.

Respondent's claim that DHS had no concerns with her before the May 26, 2013 domestic violence incidence is not borne out by the record. By March 26, 2013, less than two months after the minor child's birth, the trial court had authorized a termination petition because

of respondent's history with Children's Protective Services (CPS), criminal history, and substance abuse. Moreover, respondent's assertion that the April 2013 dismissal of the case restored placement of the child to her care is unsupported by the trial court's record. In April 2013, the trial court placed the child with his father, recognizing that he could pursue physical and legal custody of the child. There is no indication that the trial court considered respondent as a suitable custodian. Similarly, respondent's contention that there were no new allegations of drug use is unpersuasive. Respondent has an extensive history of substance abuse issues and admitted using marijuana while pregnant with this minor child.

As previously mentioned, only one statutory ground is necessary for termination of parental rights. This Court will affirm a termination if there is clear and convincing evidence to support the trial court's termination decision on at least one statutory ground and termination is in the child's best interests. *In re Ellis*, 294 Mich App 30, 32-33; 817 NW2d 111 (2011). Given that the record supports termination of respondent's rights under MCL 712A.19b(3)(g) and (j), we need not address the additional ground for termination.

Respondent next argues that petitioner failed to make reasonable efforts to help rectify respondent's issues. However, reunification was never a goal in this case, and such efforts were not required. MCL 712A.19b(4) and MCR 3.977(E) authorize an order terminating parental rights at the initial dispositional hearing if a petition seeking termination is filed. Here, termination of respondent's parental rights was expressly sought in the original petition. Therefore, efforts at reunification were not required. MCR 3.977(E). Thus, respondent's claim that petitioner had a duty to make reasonable efforts toward reunification is without merit, and termination of her parental rights was proper under MCL 712A.19b(3)(g) and (j).

Respondent argues that her due process rights were violated because petitioner did not prove its case against her. Respondent argues that the burden of persuasion was shifted and she should not have been required to submit proof of her improved parenting skills or that she was drug free. She argues that there was no finding that she continued to use marijuana. Respondent also argues that there was uncontroverted evidence that she and the child were bonded, and that she was making strides toward rehabilitation.

Respondent correctly states that petitioner had the burden of proving a statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3); MCR 3.977(A)(3). In this case, the record confirms the trial court's determination that petitioner met its burden of proof by presenting evidence of respondent's criminal history and respondent's marijuana use during pregnancy. Respondent never refuted this evidence. Regardless, drug use was not the sole reason respondent's parental rights were terminated. Respondent's parental rights were terminated because she had a history of child abuse and neglect, was involved in a domestic violence incident in May 2013, and demonstrated impaired parental judgment by leaving Michigan with the child. The evidence established that respondent repeatedly exposed this minor child to risk of harm and that the child would not be safe in her care. Any bond between respondent and the child was tenuous, given the risk of safety to the child.

Finally, there is no merit to respondent's argument that she was denied due process. Respondent was provided a full hearing and an opportunity to be heard before the termination of her parental rights, and thus her due process rights were not violated. See *In re Kirkwood*, 187

Mich App 542, 546; 468 NW2d 280 (1991). The trial court properly took jurisdiction over the child, and respondent's parental rights were properly terminated following a hearing pursuant to the applicable statutes and court rules. Respondent's argument that she was denied due process is wholly unsupported.

Affirmed.

/s/ Donald S. Owens

/s/ Kathleen Jansen

/s/ Peter D. O'Connell