

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* M. R. NETHERTON, Minor.

UNPUBLISHED  
December 9, 2014

No. 321211  
Wayne Circuit Court  
Family Division  
LC No. 11-504110-NA

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Before: BORRELLO, P.J., and WILDER and STEPHENS, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i). Respondent conceded the trial court's initial jurisdictional findings under MCL 712A.2(b). With jurisdiction conceded, the trial court took custody of the minor child and offered respondent a treatment plan that included substance abuse counseling, drug screens, parenting classes, and regular visits with the child. After more than two years, respondent was never fully compliant. For the reasons set forth in this opinion, we affirm.

A trial court must first find by clear and convincing evidence that one or more facts alleged in the petition are true and establish at least one statutory ground for termination under MCL 712A.19b(3). *In re Trejo*, 462 Mich 350, 360; 612 NW2d 407 (2000). A trial court may terminate the rights of a parent to a child if the court finds, by clear and convincing evidence that:

(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 that 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. [MCL 712A.19b(3)(c)(i).]

Our review of the evidence presented in this case leads us to conclude that between the initial dispositional order entered on May 30, 2012, and the supplemental petition filed nearly two years later on February 21, 2014, respondent mother failed to correct the principal conditions that led to the child's adjudication as a court ward. On October 25, 2011, a Children's Protective Services ("CPS") investigator interviewed respondent who admitted that she was currently living in her car, abusing prescription drugs, and had an untreated mental illness. The record

established that these conditions had not been rectified by the time the trial court terminated respondent's parental rights. Given that respondent had ample time to correct these issues and failed to make any significant progress toward resolving them after more than two years, the trial court properly concluded that she was not likely to correct the conditions within a reasonable time given the child's age.

The record further indicates that respondent put forth an inconsistent effort toward satisfying rehabilitative efforts offered to her by various agencies and the trial court. Namely, her inability to resolve issues with substance abuse proved to be a determinative obstacle. During the pendency of the case, respondent missed more than 40 drug screens and tested positive for cocaine, marijuana, and heroin. Her lack of commitment was apparent when in April 2012, respondent admitted that she had been abusing prescription drugs despite, just two months prior, being ordered to participate in substance abuse services and random drug screens. Furthermore, at an emergency dispositional review hearing in October 2013, the trial court commented that respondent had come to its courtroom the day before and her appearance was consistent with heavy narcotics use. Respondent entered a substance abuse treatment program shortly thereafter but failed to complete the program. Hence, the evidence of repeated substance abuse issues coupled with a lack of desire or will by respondent to adequately address and treat her substance abuse issues, compelled a finding by the trial court that respondent's parental rights should be terminated pursuant to the dictates of MCL 712A.19b(3)(c)(i).

In addition to repeated substance abuse, respondent demonstrated an inconsistent interest in developing a role in the minor child's life. After a psychiatric evaluation on May 24, 2012, a therapist for the Clinic for Child Study ("CCS") concluded that "even though [respondent mother] is participating in several Court-ordered services, she does not seem to be benefiting from these services . . . [i]t will be important that [respondent mother] quickly identify and take responsibility for why her daughter is currently in a Temporary Court Ward." At certain times, however, it appeared from the record that respondent was making progress in developing a healthy relationship with the minor child. For example, the DHS foster care worker assigned to this case testified two months after the CCS report that respondent had completed parenting classes, was in substance abuse counseling, and was referred for domestic violence counseling. Nevertheless, the pattern of inconsistent progress prevailed despite the numerous efforts by the trial court to promote respondent's improvement.

Respondent argues that it was error when the Department of Human Services ("DHS") did not require the maternal grandmother, in whose care the minor child was placed during the pendency of these proceedings, to make rehabilitative efforts of her own. For example, respondent argues that DHS never required the maternal grandmother to take anger management classes despite being involved in several physical altercations with respondent. Respondent therefore argues that DHS erred when case workers failed to focus their attention on the constant friction between her and her mother, thus presenting a formidable obstacle to her successful reunification with the minor child. Indeed, respondent's father testified that the grandmother made it difficult for respondent to see the minor child and that she would obstruct "her relationship with her daughter at every opportunity that she [could]." Furthermore, respondent's father testified that he and the minor child were present for an altercation between respondent and her mother wherein respondent's mother knocked respondent to the ground, ultimately resulting in police involvement. While there was evidence to warrant a finding that the maternal

grandmother did little, if anything, to help facilitate a bond between respondent and the minor child, such a finding is irrelevant to the issues before this Court. Ultimately, it was the responsibility of respondent to alleviate the conditions that led to the trial court taking jurisdiction. That respondent's mother did nothing to assist respondent in her efforts to alleviate the conditions that led to adjudication does not change the factual findings of the trial court relative to respondent. Presumably, it may have been easier and more beneficial for respondent to rely on her mother as a source of strength and assistance rather than a source of friction, however, the conduct of the maternal grandmother is not at issue in this case. Rather, it was respondent who missed the numerous drug screens, continued to abuse substances, and failed to successfully complete substance abuse treatment, all of which were issues when the proceeding began more than two years earlier.

Additionally, the record revealed that respondent's failure to improve her mental health issues was seen in her visits with the minor child wherein she was frequently emotionally unstable during visits, and she often acted inappropriately in front of the child, therapist, and caseworker. In September 2012, the minor child's therapist, Genie Lewis, opined that respondent had mood swings when she was with her child. Ms. Lewis further stated that respondent was "pressured" in the way she interacted with the child, meaning she seemed very anxious and was intrusive in her play. Moreover, respondent's visits with the child were sporadic and she frequently missed visits without notice.

Finally, the facts presented during the proceedings also made clear that respondent failed to obtain suitable housing. Her constant struggle with substance abuse proved to obstruct any ability to maintain a household fit for a child. Throughout the course of the proceedings, respondent was found to be living either in her car, at a residential treatment facility, or incarcerated. Based on all these factors, the trial court did not clearly err in terminating respondent's parental rights. MCL 712A.19b(3)(c)(i). *Trejo*, 462 Mich at 360.

Next, respondent argues that the trial court erred in finding that termination of her parental rights was in the child's best interests. "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." MCL 712A.19b(5). Whether termination is in the child's best interests is determined by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). In determining a child's best interests, a court may consider a variety of factors including the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home, *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012), as well as a respondent's history, psychological evaluation, and parenting techniques. *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009). The trial court's determination regarding the child's best interests is also reviewed for clear error. *In re Trejo*, 462 Mich at 356-357.

We reject respondent's argument that termination of her parental rights was not in the child's best interests because of the progress she made with her treatment plan. Although respondent did complete certain aspects of her treatment plan, her inconsistent commitment from benefiting from those services, particularly those services targeted at substance abuse,

demonstrated sufficient grounds for the trial court to terminate parental rights. In addition to respondent's inconsistent approach to correcting her substance abuse, her mental health issues went unresolved and often led to an inappropriate relationship with her minor child. The minor child had been in care for more than two years, and given respondent's lack of progress in resolving the principal conditions that led to the minor child's initial adjudication as a court ward, it was unlikely that the minor child could be returned to her care within the foreseeable future.

In addition, contrary to what respondent argues, the evidence did not indicate that a strong bond existed between respondent and the minor child. Respondent frequently missed visits without notice, which was upsetting to the minor child. Moreover, the minor child's therapist testified that the relationship between respondent and the minor child was not strong, and described the relationship as a "disorganized detachment relationship." In light of this evidence, the trial court did not clearly err in finding that termination of respondent's parental rights was in the minor child's best interests. See *In re Frey*, 297 Mich App 242, 242; 824 NW2d 569 (2012).

Affirmed.

/s/ Stephen L. Borrello  
/s/ Kurtis T. Wilder  
/s/ Cynthia Diane Stephens