

STATE OF MICHIGAN
COURT OF APPEALS

In re A. L. DUNNAWAY, Minor.

UNPUBLISHED
March 10, 2016

No. 329365
St. Clair Circuit Court
Family Division
LC No. 13-000288-NA

Before: M. J. KELLY, P.J., and CAVANAGH and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals as of right the circuit court's order terminating her parental rights to her minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j).¹ For the reasons stated in this opinion, we affirm.

Respondent first argues that the trial court erred in finding that statutory grounds for terminating her parental rights were established by clear and convincing evidence.² We disagree.

Termination under MCL 712A.19b(3)(c)(ii) is proper if:

(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:

* * *

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions,

¹ The child's legal father voluntarily released his parental rights.

² We review the trial court's findings under the clearly erroneous standard. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

It is undisputed that respondent was, in fact, a respondent in the proceedings and that the initial dispositional order was entered more than 182 days before petitioner filed the supplemental petition seeking termination of respondent's parental rights. Moreover, the record reflects that domestic violence was an issue that arose early during the case. Respondent had a history of domestic violence with the child's legal father and there was testimony that, because of the abuse, she left him. The record, however, shows that after leaving the child's legal father, respondent then resumed her relationship with him.

Respondent was also involved in a relationship with Steven Sanchez, a man she asserted was the child's real father. The record demonstrates a history of domestic violence between respondent and Sanchez. Respondent spent time in jail as the aggressor of domestic violence against Sanchez. Further, according to the foster care worker, Sanchez had multiple convictions for domestic violence and respondent had previously sought a personal protection order (PPO) against him. Respondent married Sanchez despite their history of violence. However, she divorced him during the pendency of the case and moved into a domestic violence shelter. After her divorce, respondent reported that she still felt connected to Sanchez and evidence was presented establishing that respondent continued to see him. When questioned about the contact, respondent made up excuses and otherwise minimized it.

The trial court found that respondent's propensity for choosing unhealthy, abusive relationships was related in part to her ongoing mental health issues and that her "mental health issues are . . . clearly a problem that would cause [respondent] not to be able to care for the child." The trial court found that respondent had received services to rectify those issues, but that the issues had not been rectified. Respondent had the benefit of ongoing Community Mental Health (CMH) services, including individual counseling, the Dialectical Behavior Therapy program, and domestic violence classes. The trial court found that respondent tended to revert to unacceptable behavior patterns when she was not involved in CMH services and that respondent had voluntarily discontinued those services. While respondent had sought out mental health services through another agency, there was no evidence that the counseling at the new agency was sufficient to meet her needs.

The foster care worker testified that respondent completed domestic violence classes and learned to "say the right things" in terms of what constituted a healthy relationship and that she "knows what she should and should not be doing." The trial court found that respondent "knows the impact of that [domestic violence] on her and her life," but was unable or unwilling to change her behavior accordingly. Respondent stated that she did not complete her domestic violence classes because the instructor had to take a medical leave of absence. Respondent, however, believed that she benefited from the classes because she learned to control her temper and stay away from people like Sanchez. She stated that she loved Sanchez but was not in love with him, that she wanted Sanchez to be a part of the child's life, and that she did not intend to continue contact with him. Thus, the record shows that despite participating in domestic violence classes and seeming to understand the concepts that were taught, respondent continued her relationship

with Sanchez and she wanted Sanchez to be involved in the child's life. Her testimony both denied the involvement with Sanchez and minimized his behavior. Accordingly, on this record, the trial court did not clearly err in finding by clear and convincing evidence that MCL 712A.19b(3)(c)(ii) supported termination of respondent's parental rights.³

The trial court also did not clearly err in finding by a preponderance of the evidence that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court found that while respondent may have loved the child, she failed to maintain a bond with her through regular visitation. Consequently, the child, who had been in foster care virtually her entire life, knew her foster parent as her parent. Respondent's mental health and domestic violence issues also remained barriers to reunification even though respondent had been working to address them for nearly two years. Respondent had maintained a relationship with her abusive ex-husband and intended to involve him in the child's life as her father. On this record, the trial court did not clearly err in terminating respondent's parental rights.

Affirmed.

/s/ Michael J. Kelly
/s/ Mark J. Cavanagh
/s/ Douglas B. Shapiro

³ We do not address whether the trial court clearly erred in finding grounds to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j) because only one ground for termination needs to be established. *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012).