

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 27, 2010

In the Matter of A. A. JOHNSON, Minor.

No. 295986
Muskegon Circuit Court
Family Division
LC No. 09-038228-NA

Before: FORT HOOD, P.J., and BORRELLO and STEPHENS, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interest of the child. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller*, 433 Mich at 337.

Termination of parental rights was proper under MCL 712A.19b(3)(c)(i) and (g) because the conditions that led to the adjudication continued to exist, and respondent was unable to provide proper care and custody of the minor child. The child sustained multiple fractures while under respondent's care and supervision. Given respondent's repeated attraction to violent men, and her continuous involvement in several violent relationships after the child's removal and after receiving services for domestic violence, she had not addressed the domestic violence that led to the adjudication. Because respondent never demonstrated the ability to benefit from services or avoid future violent relationships, she could not provide proper care for the minor child.

Respondent's inability to properly care for the minor child was also evident from her lack of stable housing. Within the last year respondent lived with her aunt, at her mother's house, with a man who beat her, in an apartment by herself, and in an apartment with her boyfriend.

She even left the safety of her mother's home to live with an abusive boyfriend. At the time of the termination hearing, she was living in an apartment with a rent payment that left her little money for other expenses. Thus, respondent had not demonstrated the ability to provide stability for her child.

Respondent was also unable to provide proper care and custody because she did not have the necessary parenting skills. Although respondent completed two sets of parenting classes, she did not benefit from them. Respondent also did not retain any of the parenting instruction provided to her by the caseworker, who had to repeatedly instruct her on the same topics. A parent must benefit from services offered so that she can improve parenting skills to the point where the child would no longer be at risk in the parent's custody. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

Respondent's inability to provide proper care was further demonstrated by her inability to make the minor child a priority. Respondent missed six of eleven possible visits because she could not wake up early enough to let the caseworkers know of her plans to attend the visit so they could transport the child. Respondent had difficulty rising early because she stayed up late playing video games and watching television. And, although at first respondent claimed she did not have an alarm clock to wake herself, she later contradicted herself when she said that she set her alarm clock to wake her at 7:00 every morning.

Respondent's drug and alcohol use also interfered with her ability to properly care for the minor child. Although respondent enrolled in an intensive outpatient treatment program for alcohol use, she came to a visit smelling of alcohol because she had been drinking that morning before the visit. While respondent went on to participate in Phase II of the program, there was no evidence that she would be able to maintain an alcohol-free lifestyle. Likewise, respondent had two positive drug screens for marijuana, but her drug use was never addressed in a treatment program. Given respondent's history of alcohol use and lack of drug treatment, there was no evidence she would be able to maintain a drug-free and alcohol-free lifestyle. Thus, termination of respondent's parental rights was proper under MCL 712A.19b(3)(c)(i) and (g).

Termination of respondent's parental rights was also proper under MCL 712A.19b(3)(j) because the minor child would be subject to risk of harm if returned to respondent's care. The child sustained many severe bone fractures while in the care of respondent. Respondent identified the man she believed to be the child's father as the perpetrator of the abuse. Her poor judgment was evident when she stated that, even though he assaulted her multiple times, including while she was pregnant, she did not believe he would hurt their baby. After completing domestic violence services respondent continued to involve herself in violent relationships. She even left the safety of her mother's house to move in with an abusive boyfriend. When she finally ended that relationship she involved herself in yet another violent relationship, and admitted that she hit her latest boyfriend. There was no evidence that respondent had addressed her domestic violence issues or that she had the insight to understand the danger her violent relationships posed to the child. Thus, termination of parental rights was proper under MCL 712A.19b(3)(j).

The trial court also did not err in its best interest determination. It was in the minor child's best interest to be raised by someone, unlike respondent, who could provide her with a stable, safe home without domestic violence. Given respondent's extensive history of domestic

violence, she was unable to provide her child with a safe home environment. Respondent also did not have the parenting skills necessary to properly care for her child. Moreover, the evidence showed that there was no bond between respondent and the child. She was an otherwise happy child who behaved differently around respondent. The child was distressed and terrified by respondent's presence, and her interaction with respondent was minimal. Respondent did not give positive regard to her child or nurture her. Thus, the trial court did not clearly err in its best interest determination.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Stephen L. Borrello

/s/ Cynthia Diane Stephens