

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 29, 2011

In the Matter of WOLF/MCCORMICK, Minors.

Nos. 303639, 303640
Hillsdale Circuit Court
Family Division
LC No. 10-000113-NA

Before: O'CONNELL, P.J., and METER and BECKERING, JJ.

PER CURIAM.

In these consolidated appeals, respondent father appeals as of right the trial court order terminating his parental rights to his minor child under MCL 712A.19b(3)(c)(i), (g), and (j), and respondent mother appeals as of right the same order terminating her parental rights to her two minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent mother challenges the trial court's findings regarding the existence of statutory grounds for termination, and both respondents challenge the trial court's findings regarding the children's best interests. "In a termination of parental rights proceeding, a trial court must find by clear and convincing evidence that one or more grounds for termination exist and that termination is in the child's best interests." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). An appellate court reviews the trial court's findings of fact for clear error. MCR 3.977(K); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake was made. *Id.* at 209-210. Due deference is given to the trial court's special opportunity to judge the weight of evidence and the credibility of witnesses who appear before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not err when it terminated respondent mother's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j) because she did not demonstrate the ability to maintain a substance-free lifestyle. Respondent mother has a dependence disorder and did not benefit from services intended to address her substance abuse and ability to provide a stable home. Respondent mother attended several detoxification and inpatient treatment programs but never completed the programs and relapsed continuously. She even participated in a very intense program through Family Treatment Court but continued to use methadone and suboxone while in the program. Respondent mother tested positive for heroin just two weeks before the conclusion of the termination hearing.

Respondent mother argues that, given a “reasonable” amount of time, she would be able to rectify her drug addiction. This assertion is unsupported by the trial court record. Respondent mother has a significant vulnerability to relapse and did not maintain sobriety for any significant length of time. The evidence shows that she was not committed to achieving and maintaining sobriety, and there is no reason to believe that any amount of additional time would give her the motivation to overcome her addiction. Respondent mother used drugs even while pregnant with the younger child. Her poor judgment regarding substance use demonstrates that she would not be able to keep her children safe. Because respondent mother did not address the substance use that led to the children’s adjudication and because her substance use interfered with her ability to properly care for her children, termination of parental rights was proper under MCL 712A.19b(c)(i), (g), and (j).

Respondents both argue that the trial court erred in its best-interest determination and that other, less extreme measures could have been taken instead of terminating parental rights. Because both respondents had an extensive history of drug use and failed to benefit from services, they were unable to provide the children with a safe home environment. It is in the children’s best interests to be raised by caregivers who can provide them with a stable, safe home without exposure to drugs. Moreover, contrary to respondents’ assertion that there were alternative measures to termination of their parental rights, termination would be the first step in providing the children with permanence and stability. Given respondents’ lack of progress, the children should not be asked to wait longer than they have already waited.

Respondents also argue that the trial court’s findings rely on language from outdated case law preceding the amendment of MCL 712A.19b(5), which now requires the trial court to make an affirmative finding regarding the children’s best interests. Although some of the language in the trial court’s opinion refers to outdated case law, the trial court properly found that termination of parental rights was in the children’s best interests as required by MCL 712A.19b(5). See *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). Thus, the trial court did not clearly err in its best-interest determination. See *In re JK*, 468 Mich at 209.

Affirmed.

/s/ Peter D. O’Connell
/s/ Patrick M. Meter
/s/ Jane M. Beckering