

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
February 14, 2013

In the Matter of BANKS/KIMBLE, Minors.

No. 311934
Ottawa Circuit Court
Family Division
LC No. 08-059481-NA

Before: BECKERING, P.J., and STEPHENS and BOONSTRA, JJ.

PER CURIAM.

Respondent mother appeals as of right the order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

I. ANALYSIS

In a case regarding the termination of parental rights, a petitioner must establish a statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3). Only one statutory ground need be proven in order to terminate parental rights. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). This Court reviews both the lower court’s factual findings and its ultimate decision whether a statutory ground has been proven for clear error. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). “A finding is clearly erroneous [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.” *Id.* (citations and quotations omitted).

Once a statutory ground for termination has been proven, the court shall order termination of parental rights if it finds “that termination of parental rights is in the child’s best interests[.]” MCL 712A.19b(5). This Court reviews for clear error a lower court’s findings with regard to whether termination was in the best interest of the child. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

A. Statutory Ground for Termination

The trial court did not clearly err in finding that petitioner established, by clear and convincing evidence, a statutory ground for termination. MCL 712A.19b(3)(g) permits termination of parental rights where:

The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

MCL 712A.19b(3)(j) permits termination of parental rights where:

There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Here, the record indicates that the children were often unsupervised while in respondent mother's care, and were frequently observed playing in the busy road outside the family home. Respondent mother allowed her children to have contact with a relative who had previously sexually molested one of the children. The oldest child had numerous unexcused absences from school while in respondent mother's care, and a urine test indicated that the child was not receiving his prescribed medication. The children's foster care worker testified that respondent mother had not benefitted from services throughout the case or sufficiently improved her ability to parent the children.

This record evidence supports the trial court's finding of a statutory basis for termination under MCL 712A.19b(3)(g) and (j). See *In re Archer*, 277 Mich App 71, 75-76; 744 NW2d 1 (2007) (holding that there was clear and convincing evidence to terminate the respondent's parental rights under MCL 712A.19b(3)(g) and (j) where the respondent "did nothing to prevent known sex offenders from interacting with her children" and was unwilling "to take the necessary precautions to ensure her children's safety from known sex offenders"); *In re CR*, 250 Mich App 185, 196; 646 NW2d 506 (2002) (holding that termination under MCL 712A.19b(3)(g) is appropriate where "there is no real evidence that" the respondent benefitted from the services offered). Accordingly, we conclude that the trial court did not commit clear error in finding at least one statutory ground for termination. "Having concluded that at least one ground for termination existed, we need not consider the additional grounds upon which the trial court based its decision." *In re HRC.*, 286 Mich App at 461.

B. Best Interests of the Children

Furthermore, the trial court did not clearly err by finding that termination of respondent mother's parental rights was in the minor children's best interests. MCL 712A.19b(5). At the time the trial court terminated respondent mother's parental rights, the older children had been in and out of respondent mother's custody for more than four years. The foster care worker testified, and the record supported, that respondent mother had not benefitted from services and was still unable to properly supervise and care for the children. The trial court agreed with the foster care worker that the children needed permanence and stability, but that respondent mother was unable to provide such permanence and stability. Thus, the trial court did not commit clear error by finding that termination of respondent-mother's rights to the children was in the children's best interests. *In re Trejo Minors*, 462 Mich 341, 364; 612 NW2d 407 (2000) ("[W]e cannot conclude that the court's assessment of the children's best interests was clearly erroneous. . . . The court did not clearly err by refusing to further delay permanency for the

children, given the uncertain potential for success and extended duration of respondent's reunification plan.").

Respondent-mother argues that the trial court "erred by not addressing the children's placement with relatives in making its best interest determination." This Court has held that "because a child's placement with relatives weighs against termination under MCL 712A.19a(6)(a), the fact that a child is living with relatives when the case proceeds to termination is a factor to be considered in determining whether termination is in the child's best interests." *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012) (citations and quotations omitted). "[T]he fact that the children are in the care of a relative at the time of the termination hearing is an explicit factor to consider in determining whether termination was in the children's best interests[.]" *Id.* (citations and quotations omitted). In the present case, however, the record indicates that none of the children were placed with a relative at the time of the termination hearing. Accordingly, relative placement was not "an explicit factor to consider in determining whether termination was in the children's best interests[.]" *Id.* (citations and quotations omitted), and respondent-mother's relative placement argument does not entitle her to relief from the termination order.

Affirmed.

/s/ Jane M. Beckering
/s/ Cynthia Diane Stephens
/s/ Mark T. Boonstra