

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
February 19, 2013

In the Matter of KOOLSTRA, Minors.

No. 311879
Crawford Circuit Court
Family Division
LC No. 11-003970-NA

Before: K. F. KELLY, P.J., and MARKEY and FORT HOOD, JJ.

PER CURIAM.

Respondent appeals by right the order terminating her parental rights to her three minor children, alleging that petitioner failed to establish a statutory ground for termination and that termination is not in the best interests of the minor children. We affirm.

On January 9, 2012, respondent and her husband¹ were found guilty of maintaining a methamphetamine lab in the presence of children, MCL 333.7401c(2)(B). She had two prior felony convictions, both involving the abuse of controlled substances. Respondent was sentenced to 35 months to 20 years of imprisonment. Following respondent's most recent arrest, petitioner sought termination of her parental rights under MCL 712A.19b(3)(c)(i), (c)(ii), (g), (h), and (j). Petitioner based its request on respondent's emotional instability, prison sentence, and history of substance abuse. All three children were placed and still live with relatives.

During termination proceedings, the lower court heard testimony from Stephen Martin Reinke, a foster care worker for the Crawford County Department of Human Services (DHS). Reinke testified that respondent had seven previous child protective services (CPS) complaints levied against her, most of which were related to substance abuse and domestic violence. One child was present for an act of domestic violence when respondent's father shot her husband. Additionally, there was a complaint that the children were not fed. Reinke opined that respondent would have to make drastic changes to her lifestyle and personality in order to properly parent her children. The sentencing judge testified that it was unlikely that respondent would receive a boot camp sentence if requested by the Department of Corrections. Furthermore, a state trooper testified that respondent's illegal drug lab was discovered through

¹ Respondent's husband is also the father of two of the minor children, and he was sentenced to a minimum term of five years' imprisonment. His parental rights are not at issue in this appeal.

the use of a confidential informant (CI), and children were heard in the home when the CI attempted to make a purchase. On the contrary, respondent testified that she acted “normal,” even when taking illegal drugs such that the children were unaware of her drug use. She further denied that the children were ever deprived of a safe home or food. Respondent alleged that the police lied about the children’s presence in the home during the production of methamphetamines. She blamed the devil for her drug use and lacked insight into the conditions that led to the children’s removal.

After finding it unlikely that respondent would rehabilitate her parenting abilities upon release from prison, the lower court found sufficient grounds for termination under MCL 712A.19b(3)(g) and (j), and similarly found termination in the best interests of the children. We review a trial court’s findings regarding the statutory grounds for termination and a child’s best interests under the clearly erroneous standard. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). “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 Jenks*, 281 Mich App 514, 517; 760 NW2d 297 (2008).

When seeking a permanent termination of a respondent’s parental rights, the petitioner bears the burden of proving a statutory basis for termination by clear and convincing evidence. *In re AMAC*, 269 Mich App 533, 537; 711 NW2d 426 (2006). Here, petitioner sought, and the court granted, termination of respondent’s parental rights under MCL 712A.19b(3)(g) (parent fails to provide proper care or custody of the child and there is no reasonable expectation that the parent will do so within a reasonable time), and MCL 712A.19b(3)(j) (a reasonable likelihood that the child will be harmed if returned to the home of the parent).

Respondent does not, directly or indirectly, challenge the court’s findings with respect to MCL 712A.19b(3)(j). Because only one ground for termination need be established, respondent’s challenge predicated on the alleged failure to establish the requisite statutory grounds is without merit. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). Although we need not address respondent’s arguments with respect to MCL 712A.19b(3)(g), we do so because it is abundantly clear that this ground for termination was also established.

A state police officer testified that all three children were present in respondent’s trailer when he discovered the methamphetamine lab. Thus, the children were not only in the presence of an illegal drug lab, they were also threatened by the dangers posed by the chemical processing and fumes. For example, the risk of explosion was present. Further, the officer noted that hazardous materials suits are often used during cleanup of the materials used in the production of methamphetamine. He additionally testified that respondent’s home had a strong chemical odor and that he had to use a gasmask when searching through her drug making supplies. The exposure to such an environment clearly endangered the health and safety of the children. There was also evidence that respondent and her husband at one time had been selling and cooking crack cocaine in front of the minor children.

And in 2006, DHS issued two complaints alleging incidents of domestic violence and incidents of respondent threatening to kill herself. Then, in 2008 and 2009, DHS issued two complaints alleging that respondent’s father, who abused his daughters when they were children, was present at respondent’s mother’s daycare facility. Also in 2009, DHS filed a complaint

alleging that respondent's father shot her husband in the leg during a domestic dispute. Finally, in 2011, DHS issued a complaint alleging that the minor children complained to their school and neighbors that they were hungry and had no food at their home.

On cross-examination, respondent steadfastly refused to admit that her substance abuse negatively affected her children, stating "they didn't know I was high or using." In addition, respondent believed that she did not endanger her children by allowing methamphetamine production in her home. Lastly, respondent refused to admit that she was responsible for neglecting her children, blaming her substance abuse on the devil. While respondent testified that she was a changed woman, the lower court discredited her testimony.

Because the lower court found a statutory basis for termination, it had to terminate respondent's parental rights if it also found that termination was in the best interests of the minor children. MCL 712A.19b(5). In making that determination, the lower court must consider the record as a whole. *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000). It may consider respondent's parenting ability, as well as the children's need for permanency, stability, and finality. *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012).

Here, the evidence of record supports the lower court's finding that termination of respondent's parental rights was in the best interests of the minor children. We note that because the lower court made adequate findings on the record regarding the children's relative placement, the record permits effective appellate review. See *id.* at 43. Respondent failed to provide any indication that she would become a fit parent once released from prison. Over the last decade, she had three felony drug convictions and eight different DHS complaints levied against her. Her lengthy struggle with substance abuse endangered the minor children on numerous occasions, and she steadfastly refused to accept this fact during termination proceedings. Termination of parental rights was clearly in the best interests of the children.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Jane E. Markey
/s/ Karen M. Fort Hood