

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of B. S. WOODS, Minor.

UNPUBLISHED
February 25, 2014

No. 316075
Wayne Circuit Court
Family Division
LC No. 06-449567-NA

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

PER CURIAM.

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

Respondent has a history with Children's Protective Services dating back to 2006. Respondent's two older children were removed from her care because the younger child, an infant, was admitted to the hospital with skull fractures. Following a hearing, respondent's parental rights to both children were terminated at the initial disposition under MCL 712A.19b(3)(b)(i), (b)(ii), (g), (j), and (k)(iii).¹

In April 2011, the court took jurisdiction over this child due to the prior terminations and respondent's substance abuse, mental health, and homelessness. Respondent was given a treatment plan requiring substance-abuse treatment, random drug screens, therapy, a psychiatric evaluation, and visitation. Nearly two years later, the court authorized a petition seeking termination of respondent's parental rights. The petition alleged that respondent had failed to consistently attend, and had not benefited from, the various services provided to her. After a hearing, the court entered an order terminating respondent's parental rights.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Once the petitioner has established a statutory ground for termination by clear and convincing evidence,

¹ Respondent appealed and this Court affirmed. *In the Matter of Crenshaw/Rhodes, Minors*, unpublished opinion per curiam of the Court of Appeals, issued March 1, 2007 (Docket No. 270741).

the trial court shall order termination of parental rights if the court also finds that termination of parental rights is in the best interests of the child. MCL 712A.19b(5). We review the trial court's decision for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A decision is clearly erroneous if this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

The court based the termination decision on MCL 712A.19b(3)(c)(i), (g), (j), (i) and (l), which permit termination of parental rights under the following circumstances:

(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:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(g) 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.

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical abuse, and prior attempts to rehabilitate the parents have been unsuccessful.

(j) 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.

(l) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter or a similar law of another state.

With respect to subsection (i), the evidence established that respondent's parental rights to the child's siblings were terminated due to physical abuse. Nonetheless, there were no attempts to rehabilitate respondent in that case because termination was requested at the initial disposition and she was not given a treatment plan. Therefore, termination was not warranted under subsection (i).

However, reversal is not required because only one statutory ground need be established to support termination of respondent's parental rights. *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009). In this case, clear and convincing evidence supported termination under all the other statutory provisions.

With respect to subsection (3)(c)(i), the court assumed jurisdiction over the child due, in part, to respondent's substance abuse and mental-health status. The evidence established that respondent had not fully resolved either of these issues by the time of the termination hearing. Although respondent completed a drug-treatment program, she thereafter failed to follow up consistently with required drugs screens, and the foster-care worker testified that the missed drug screens were a concern. Respondent was on a variety of prescriptions for her various ailments and had a history of abusing prescription medicine. Yet, she failed to consistently have recommended monthly medication reviews. Respondent had not consistently attended therapy and additional therapy was needed at the time of the hearing. Respondent's failure to resolve these issues in the lengthy period of time her child was in care warranted a conclusion that she would not do so in a reasonable time. Accordingly, termination was warranted under subsection 3(c)(i).

With respect to subsection (g), respondent failed to provide proper care and custody for her child when she ingested drugs during pregnancy, causing the child to be born with cocaine in her system. With respect to her future ability to care for her child, respondent points out that the evidence established that she had appropriate housing and support at the time of the hearing. Nonetheless, the foster-care worker felt that respondent was not able to care for the child's needs due to respondent's own medical issues. Moreover, as noted above, respondent had failed to fully resolve the issues involving her mental health and substance use. Given all these circumstances, and the length of time this matter was pending, the trial court did not clearly err in terminating respondent's parental rights under subsection (3)(g).

For similar reasons, the trial court's decision to terminate under subsection (3)(j) was not clearly erroneous. Respondent's failure to resolve issues involving her mental health and substance abuse and her likely inability to attend to the child's special needs justified termination under this provision. Aside from all of this, respondent's prior case involved serious injury to one of her other children, and she failed to accept responsibility for that.

With respect to subsection (l), respondent concedes that she had her parental rights to two other children terminated in 2006. Nonetheless, she argues that termination under this provision is not appropriate because the court, in the present case, gave her a treatment plan initially. However, respondent offers no authority for this proposition and therefore has abandoned this issue. *Berger v Berger*, 277 Mich App 700, 715; 747 NW2d 336 (2008). In any event, nothing in the statute indicates that termination under subsection (l) is barred if a treatment plan is offered initially. Termination was warranted under subsection (l) because respondent's parental rights to her two other children were terminated as a result of proceedings under MCL 712A.2(b).

In deciding a child's best interests, a court may consider the child's bond to his parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the suitability of alternative homes. *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144

(2012). Respondent claims she was bonded with the child. However, any bond that existed was likely limited because the child had been out of respondent's care all of her life and respondent failed to consistently visit her.

The court noted the child's need for consistency, structure, and permanency and the length of time she was a court ward, all appropriate considerations. Moreover, the child had many special medical needs. She required constant supervision due to sensory-processing issues, was treating with various medical personnel, and had sleep issues. The foster-care worker felt that termination of respondent's parental rights was in the child's best interests because the child needed stability and someone that could provide appropriate care for her at all times. The worker did not believe that respondent would be able to meet the child's needs even if given additional time, and she further opined that there were no further services that could be offered to respondent to improve her parenting. A Clinic for Child Study evaluation noted that the extent and nature of respondent's mental-health issues suggested that respondent was not likely to overcome those issues and live a psychologically stable life and that her prognosis for being able to provide the child with a stable, nurturing, and secure home environment was poor. The child had been continuously in the same foster-care home, and the foster-care worker felt that the child could find permanency there if parental rights were terminated.

Given all these circumstances, the trial court did not clearly err in concluding that termination was in the child's best interests.

Affirmed.

/s/ Peter D. O'Connell
/s/ Kurtis T. Wilder
/s/ Patrick M. Meter