

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of PARRISH, Minors.

UNPUBLISHED
May 20, 2014

No. 318835
Wexford Circuit Court
Family Division
LC No. 2006-020048-NA

Before: MURPHY, C.J., and O'CONNELL and K. F. KELLY, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to the four minor children at issue pursuant to MCL 712A.19b(3)(g) (failure to provide proper care or custody), MCL 712A.19b(3)(h) (parent imprisoned for more than two years with accompanying failure to provide proper care and custody), MCL 712A.19b(3)(k)(ii) (criminal sexual conduct involving penetration committed by parent against child), and MCL 712A.19b(3)(k)(iii) (parent battered, tortured, or severely physically abused child or sibling of child).¹ We affirm.

Respondent was convicted of six counts of first-degree criminal sexual conduct (CSC I), MCL 750.520b(1)(a) (victim under the age of 13), one count of second-degree criminal sexual conduct (CSC II), MCL 750.520c(1)(a) (victim under the age of 13), and one additional count of CSC I (multiple variables), MCL 750.520b.² Respondent's convictions arose out of his repeated, long-standing sexual abuse of one of the children, starting from the time the child was in kindergarten. Respondent was sentenced to 40 to 70 years' imprisonment for the CSC I convictions and 10 to 30 years' imprisonment for the CSC II conviction. There was also evidence that respondent engaged in severe physical abuse and battery of some of his other children and his wife. Further, there was evidence that respondent had a history of using illegal drugs in the home and having some of the children transport drugs for him. A therapist testified that the children refused to call respondent "dad" or "father," and instead referred to him as "Diablo," which the children indicated was Spanish for the "devil."

¹ The trial court also terminated the parental rights of respondent mother to three of the children. She has not appealed that ruling.

² Respondent appealed his convictions to this Court, and the appeal is currently pending in Docket No. 316903.

Respondent argues that the trial court clearly erred in determining that the statutory grounds for termination were established by clear and convincing evidence and that the court clearly erred with respect to the best-interests determination, as it made no mention that the children's best interests would be served by terminating respondent's parental rights. Respondent also contends that the court's findings of fact and conclusions of law were insufficient or inadequate and that the court failed to link the facts to the statutory grounds relied upon in terminating respondent's parental rights.

If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proven by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). "This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

With respect to the adequacy or sufficiency of the trial court's factual findings and conclusions of law, and its effort to connect the facts to the statutory grounds for termination, MCR 3.977(I)(1), which concerns a court's findings in termination cases, provides:

The court shall state on the record or in writing its findings of fact and conclusions of law. Brief, definite, and pertinent findings and conclusions on contested matters are sufficient.

Here, the trial court found that the home was marked by extensive violence and physical and sexual abuse inflicted by respondent. The court also found that respondent had a history of illegal drug use. The trial court further referenced the extremely long prison terms that respondent is to serve on the CSC convictions. Given the sexual and physical abuse and the prison sentences, the trial court concluded that there existed clear and convincing evidence of a failure by respondent to provide proper care or custody, with no reasonable likelihood that he would be able to provide proper care or custody within a reasonable time. MCL 712A.19b(3)(g). The trial court also found that respondent would be imprisoned for such a period that the children would be deprived of a normal home for over two years, that respondent had not provided for the children's proper care and custody, and that there was no reasonable expectation that he would be able to provide proper care and custody within a reasonable time considering the children's ages. MCL 712A.19b(3)(h). The trial court next ruled that considering the evidence and criminal convictions, there was clear and convincing evidence that respondent abused one of his children and that the abuse included criminal sexual conduct involving penetration. MCL 712A.19b(3)(k)(ii). Moreover, and apart from the criminal sexual conduct, the trial court found that respondent had engaged in abuse of a child that involved a battering, torture, or other severe physical abuse. MCL 712A.19b(3)(k)(iii). The trial court's findings of fact and conclusions of

law, which were made on the record, satisfied MCR 3.977(I)(1), and the court adequately linked the particular facts to the statutory grounds for termination.

With respect to the children's best interests and the adequacy of the trial court's findings, the court made the following observation in relationship to respondent, "There are some things which are so heinous that the state has to step in and simply say we cannot countenance this legal relationship no matter what and it cannot be viewed to be in the best interest of a person." The court was clearly concluding that it was in the children's best interests to terminate parental rights in light of the highly egregious nature of respondent's conduct. In a subsequent order, the trial court also stated that it was in the children's best interests to terminate respondent's parental rights. The court's findings were sufficient.

Finally, in light of the horrific abuse inflicted by respondent, sexual or otherwise, the length of respondent's prison sentences, the dysfunctional nature of the home environment that had existed under respondent, which included drug activity, and the positive bonds that the children had developed in foster care, we hold that the trial court did not clearly err in finding that the statutory grounds for termination were proven by clear and convincing evidence, nor did the court clearly err in regard to its best-interests determination.

Affirmed.

/s/ William B. Murphy

/s/ Peter D. O'Connell

/s/ Kirsten Frank Kelly