

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of K.L.H. and H.W.H., Minors.

UNPUBLISHED
June 24, 2014

Nos. 319647; 319648
St. Clair Circuit Court
Family Division
LC No. 12-000299-NA

Before: O'CONNELL, P.J., and FITZGERALD and MARKEY, JJ.

PER CURIAM.

In these consolidated appeals, respondents mother and father each appeal as of right from the trial court's order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

"In order to terminate parental rights, the circuit court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "We review the circuit court's determination for clear error." *Id.* "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 this case, the trial court did not err in finding that §§ 19b(3)(g) and (j) were each established by clear and convincing evidence with respect to both respondents.¹ Respondents failed to provide proper care or custody because they lacked suitable housing and neglected the children's educational and medical needs. The evidence showed that respondents had obtained housing and maintained it only with difficulty; despite working with a life skills professional, they could not effectively budget their money and were in danger of being evicted more than once. Of greater concern, however, was respondents' parenting abilities. The children came into care with no concept of personal hygiene and minimal basic education. They also had serious

¹ We are unable to determine whether the trial court clearly erred in relying on § 19b(3)(c)(i) as an additional statutory basis for termination. However, because grounds for termination were properly established under §§ 19b(3)(g) and (j), any error in relying on § 19b(3)(c)(i) as an additional ground for termination would be harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

emotional problems and acted out in highly inappropriate ways. Although respondents attended enough parenting classes to successfully meet attendance requirements and regularly attended counseling, the evidence indicated that they failed to benefit from either service. They evinced little understanding of what brought the children into care apart from the fact that they had been living in a tent rather than a house, and they evinced no understanding of the need to change their parenting to meet anything other than the children's material needs. Because respondents had been engaging in services for nearly a year and had not made any progress, the trial court did not clearly err in finding that they would not be able to provide proper care and custody within a reasonable time given the children's ages. Further, considering the harm the children had suffered while in respondents' care, and respondents' failure to understand the need to alter their parenting skills, the trial court did not clearly err in finding that the children were reasonably likely to be harmed if returned to respondents' care.

Once a circuit court has confirmed that there is a statutory ground for termination under MCL 712A.19b(3), the court must order termination of a parent's rights if the court finds by a preponderance of the evidence that termination is in the child's best interests. MCL 712A.19b(5); *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013); see also MCR 3.972(C)(1). This Court recently reiterated that a trial court may consider multiple factors when making a best interest determination:

To determine whether termination of parental rights is in a child's best interests, the court should consider a wide variety of factors that may include the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption. [*In re White*, 303 Mich App 701, 713-714; 846 NW2d 61 (2014) (quotation marks and citations omitted).]

We reject respondents' arguments that the trial court clearly erred in finding that termination of their parental rights was in the children's best interests. MCL 712A.19b(5); MCR 3.977(H)(3)(b) and (K). Whether termination is in the child's best interests is to be determined by a preponderance of the evidence standard. *Moss*, 301 Mich App at 90. As the trial court noted, the children had serious psychological problems that required a highly structured environment. Both children had shown improvement when provided with that structure in the foster home and residential treatment, yet respondents never grasped the need to change their parenting skills. The trial court also noted the children's lack of a bond to their parents. The younger child never expressed a desire to see his parents during counseling, and respondents struggled to interact with him during visits. The other child did not trust respondents and did not want to see them. The trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Peter D. O'Connell
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey