

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of FRAME/WADE/GRIGGS,  
Minors.

UNPUBLISHED  
July 17, 2014

No. 319707  
Washtenaw Circuit Court  
Family Division  
LC Nos. 2013-000026-NA;  
2013-000027-NA;  
2013-000028-NA;  
2013-000029-NA

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Before: BECKERING, P.J., and HOEKSTRA and GLEICHER, JJ.

PER CURIAM.

Respondent-mother appeals as of right four orders terminating her parental rights to the minor children DIG, DIF, DIW, and ABW under MCL 712A.19b(3)(g) and (j). Because the trial court did not clearly err in terminating respondent's parental rights, we affirm.

In the trial court, the parties stipulated that statutory grounds for termination existed under MCL 712A.19b(3)(g) (failure to provide proper care and custody) and (j) (reasonable likelihood of harm if child is returned to parent's care). After considering respondent's long history of substance abuse, incidents of domestic violence, and the lack of stability respondent afforded her children, the trial court also determined that termination was in the children's best interests. On appeal, respondent's sole argument is that the trial court erred in determining that termination of her parental rights was in the children's best interests.

To terminate parental rights, at least one of the statutory grounds for termination under MCL 712A.19b(3) must have been proved by clear and convincing evidence. *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). After a statutory ground for termination has been established, the petitioner must also prove by a preponderance of the evidence that termination is in the child's best interests. *In re Moss*, 301 Mich App 76, 83, 90; 836 NW2d 182 (2013). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). This Court reviews the trial court's best interests determination for clear error. *In re White*, 303 Mich App 701, \_\_; 846 NW2d 61 (2014); slip op at 6.

When deciding whether termination is in the children's best interests, the trial court must consider the best interests of each child individually, *In re Olive/Metts Minors*, 297 Mich App

35, 42; 823 NW2d 144 (2012), and weigh all available evidence, *In re White*, slip op at 6. Factors pertinent to the best interests determination 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.” *In re Olive/Metts Minors*, 297 Mich App at 41-42 (internal citations omitted). The 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*, slip op at 6.

In this case, although there is some evidence that a bond existed between respondent and her children, we conclude that the trial court did not clearly err in determining termination of respondent’s parental rights was in the best interest of the children. Respondent had a 19 year history of substance abuse, involving marijuana, alcohol, and cocaine, which impacted her ability to care and provide for her children. Despite attempts to overcome her addictions, respondent had relapsed numerous times and she had not resolved her substance abuse problems at the time of termination. There was also evidence that, for the majority of the proceedings, respondent continued a harmful relationship with the father of DIW and ABW, a man with whom she had several domestic violence related incidents. When this evidence is considered in contrast to the stability and permanency afforded to the children by their respective placements, the trial court did not clearly err in finding termination to be in the children’s best interests.

More specifically, considering the children individually, DIG was born with marijuana in his system, and he was exposed to substance abuse and domestic violence while in respondent’s care. Because of respondent’s substance abuse, DIG was removed from her care and placed with his legal father when he was seven years old. As a child with autism, DIG especially required stability, routine, and consistency. Yet, at the time of termination, DIG had been in his father’s care for almost five years, during which time respondent was inconsistently involved with DIG’s life. During those times when respondent chose to reenter DIG’s life, he would become aggressive, “very anxious,” and he would have emotional outbursts. DIG’s therapist recommended that he not have visitation with respondent.

DIF, ABW, and DIW were similarly subjected to instability and potentially dangerous environments as a result of respondent’s addictions and negative relationships. DIF was also born with marijuana in his system. When DIF was 1-1/2 years old, respondent relapsed on cocaine and DIF was, shortly thereafter, removed from respondent’s care. He was placed with his grandmother, who acquired a full guardianship over him, and he lived away from respondent for over three years. The guardianship was then terminated at respondent’s request, and DIF returned to respondent’s care.

DIW tested positive for cocaine at his birth. Although respondent attended inpatient treatment, she relapsed on cocaine when DIW was only six months old and he was thereafter removed from her care. DIW was more than 1-1/2 years old when he returned to respondent’s care. When ABW was six months old, and DIF and DIW had been back in respondent’s care for only six months, respondent again relapsed on cocaine. It was following this relapse that the underlying petition in the present case was filed.

In addition to being subjected to the instability and uncertainty occasioned by respondent's substance abuse, DIW, DIF, and ABW were in the home when respondent and the father of DIW and ABW engaged in domestic violence. Despite her own acknowledgment that her relationship with this man was destructive, respondent continued to be involved with DIW and ABW's father for a majority of the proceedings, and, in the past, she lied about the on-going nature of their relationship and the number of violent incidents in their relationship. Furthermore, during parenting time, respondent had difficulty engaging with DIW, ABW, and DIF all at once.

In contrast to the impermanency offered by respondent, at the time of termination, DIG had lived with his father for almost five years; he was thriving and doing well educationally. Similarly, at the time of termination, DIW, ABW, and DIF had been in the care of their grandmother for over 10 months, and had spent a majority of their lives out of respondent's care as a result of her substance abuse. They were reportedly doing well with their grandmother. DIF in particular had expressed a desire to remain in his grandmother's care, and their grandmother had expressed an interest in adopting DIW, ABW, and DIF.

Ultimately, the evidence showed that respondent continued to struggle with addiction and other negative choices in a manner that impacted her ability to care for her children and to provide needed stability and permanency. Given respondent's long history of instability and the consistency her children have found elsewhere, there is no merit to her argument on appeal that the best interests of her children would be served by respondent's participation in services. Rather, we conclude that 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/ Jane M. Beckering  
/s/ Joel P. Hoekstra  
/s/ Elizabeth L. Gleicher