

STATE OF MICHIGAN
COURT OF APPEALS

In re FARRIS CAUSEY/FARRIS, Minors.

UNPUBLISHED
October 21, 2014

Nos. 321122; 321123
Saginaw Circuit Court
Family Division
LC No. 12-033541-NA

Before: SAAD, P.J., and O'CONNELL and MURRAY, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order terminating their parental rights under MCL 712A.19b(3)(g) (failure to provide proper care and custody) to four minor children.¹ We affirm.

To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established. We review a trial court's findings for clear error. A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses. [*In re Laster*, 303 Mich App 485, 491; 845 NW2d 540 (2013) (citations and internal quotation marks omitted).]

"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). "[W]hether termination of parental rights is in the best interests of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013).

In this case, respondent mother challenges the court's findings regarding both statutory grounds and best interests. Respondent father only challenges the court's findings regarding best interests.

¹ A fifth child, ANC, is not at issue in this appeal.

In its ruling from the bench, the trial court found that respondent mother had “failed to adequately benefit from participation with the services that have been made available” and “failed to consistently maintain a safe and clean home for the children.” The court stated:

We have been at this since the fall of 2012. It is now late February of 2014. These children have been returned to parents with supportive services in place which they did not utilize that led to the children being removed again.

The best that could be said by [a therapist who had worked with the family] was that if the situation stabilized, probably within six months to a year from the time it stabilized, we could talk about having the children safely in the home. As of today, after numerous months of service, we have absolutely no indication of stabilization nor of any time when it may stabilize.

The court also stated:

There are, I am sure, some bonds between these children and their parents, but whatever their intention, these children do not receive proper care and custody in the parents’ home. I am satisfied when we have been at this as long as we have with the amount of services that have been offered that there is no reasonable likelihood that that is going to change within a reasonable time considering the ages of any of the children involved, and that’s 712A.19b(3)(g).

Under MCL 712A.19b(3)(g), the court can terminate parental rights if there is clear and convincing evidence that, “[t]he 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.” Evidence of a parent’s failure to comply with the parent-agency agreement can support a finding that the parent failed to provide proper care and custody for the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

The record here supports the trial court’s conclusion with respect to the statutory grounds for termination. Although respondents successfully participated in some services, there was testimony that their communication with petitioner was inconsistent. Significantly, Family Reunification—a program that was put in place to facilitate the children’s transition back into the home—ceased working with respondents because respondents either were not home or did not answer the door when Family Reunification staff came for scheduled visits. It was the understanding of the court, petitioner, and the lawyer-guardian ad litem that the children could be returned to the home only with the supervision and involvement of Family Reunification.

The children’s truancy was a problem throughout the proceedings. In addition, the evidence indicated that respondents had failed to maintain adequate housing for the children. The foster-care worker and family therapist testified about ongoing issues with cleanliness of the home and medication containers being left out. The family therapist also testified that if respondents were able to get the electricity in their home turned back on and if respondent mother was able to find employment, respondents might be able to stabilize their financial situation within six months to a year. Given the length of time petitioner provided services to

respondent mother, we find no clear error in the trial court's conclusion that she would not be able to provide proper care and custody within a reasonable time considering the children's ages.

The record equally supports the conclusion that termination of respondents' parental rights was in the children's best interests, a matter also reviewed for clear error. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014).

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 at 713-14 (citations and internal quotation marks omitted).]

Respondents assert that this Court's holding in *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 149 (2012), compels reversal because the trial court here failed to adequately address the fact that the children were placed with relatives. In *Olive/Metts*, this Court stated, "A trial court's failure to explicitly address whether termination is appropriate in light of the children's placement with relatives renders the factual record inadequate to make a best-interest determination and requires reversal." *Id.* The *Olive/Metts* Court held that it was clear error not to address the fact that the children were in relative placement. *Id.* Here, however, the trial court did address the fact that the children were placed with their aunt. The trial court stated as follows:

The reports in this file tell me that in the care of the relative they are doing well. It was [respondent father] who testified here that the—first of all, his wife did not get along with the relative that has the kids and that things with the relative were—I think his terminology was "up and down." I also hear testimony attributed to him that relatives undermine him, that they put the children up to saying things. That is not a relationship that speaks to me for a guardianship. That is a situation where the permanence, even if the children are with relatives, must come through termination of parental rights and possible adoption of these children.

Thus, the trial court considered the fact that the children were in relative placement, but still found that termination was in the children's best interests.

Respondent father argues that termination was not in the children's financial best interests, because termination would result in denial of financial death benefits to the children upon his death. However, father does not support this argument with evidence or legal citation. "It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel for him his arguments, and then search for authority either to sustain or reject his position."

Mitcham v Detroit, 355 Mich 182, 203; 94 NW2d 388 (1959). We decline to unravel respondent father's unsupported arguments concerning putative death benefits.

Affirmed.

/s/ Henry William Saad
/s/ Peter D. O'Connell
/s/ Christopher M. Murray