

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* BARTLETT, Minors.

UNPUBLISHED  
May 14, 2015

No. 323962  
Allegan Circuit Court  
Family Division  
LC No. 13-051776-NA

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Before: BECKERING, P.J., and MARKEY and SHAPIRO, JJ.

PER CURIAM.

Respondent-mother appeals as of right the September 25, 2014 order terminating her parental rights to the minor children KB, DB, and LB pursuant to MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if children returned to parent). We affirm.

Respondent argues that the trial court erroneously found statutory grounds to terminate her parental rights to the minor children. “In order to terminate parental rights, the trial 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 trial court’s determination for clear error.” *Id.*

We find that the trial court properly terminated respondent’s parental rights to the children under MCL 712A.19b(3)(g) and (j). MCL 712A.19b(3)(g) provides that a trial court may terminate parental rights where “[t]he parent, without regard to intent, fails to provide proper care or custody for the child[ren] 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[ren]’s age[s].” MCL 712A.19b(3)(j) provides that termination is proper where “[t]here is a reasonable likelihood, based on the conduct or capacity of the child[ren]’s parent, that the child[ren] will be harmed if [they are] returned to the home of the parent.” The harm to the children contemplated under MCL 712A.19b(3)(j) includes emotional harm as well as physical harm. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011).

The record reveals that the trial court’s termination order was premised on respondent’s mental health issues, which remained unresolved throughout these proceedings. Although petitioner provided services to assist respondent, the record reveals, contrary to respondent’s contentions, that respondent did not comply with or benefit from the treatment plan. In May 2013, DB and KB were removed from respondent’s care. Respondent was subsequently diagnosed with Delusional Disorder and prescribed medication. Although medication was

required to treat respondent's disorder, she stopped taking it five days after she was released from the hospital and never resumed taking medication at any point during the 16-month proceedings. During the proceedings, respondent sporadically attended counseling with two different therapists and there were periods of time when she did not participate in therapy at all. Testimony at the termination hearing revealed that respondent's mental health issues continued to be unresolved. At the time of termination, respondent believed she had communicated with the Central Intelligence Agency, Federal Bureau of Investigation, and Inspector General in the past. She did not believe she had a mental illness or that she required therapy, and she indicated that she would not take medication in the future. The record supports that she would become "kind of irate" and unable to focus when she "imagined" things, thus she could injure or be unable to protect the minor children, who were very young, if they were returned to her. Further, respondent lacked a stable home and employment and was unable to provide stability and consistency to the children, which was necessary for healthy development. Respondent refused to tell the caseworker where she was living, saying that she would not do so until the children were returned to her. And, although respondent argues that she could have sought assistance from the maternal grandmother if necessary to help provide for the children, the record reveals that she did not have a relationship with the grandmother and that they did not communicate at the time of termination. In light of this evidence, the trial court's findings pursuant to MCL 712A.19b(3)(g) and (j) do not leave us with "a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). Because we have concluded that these two grounds for termination existed, we need not consider the additional ground upon which the trial court based its decision to terminate respondent's parental rights. *Id.* at 461.

Respondent also argues that the trial court improperly found statutory grounds to terminate her parental rights because the maternal grandmother and the caseworker "fabricated information" so that the children would be taken into care. This argument is abandoned on appeal because respondent failed to cite supporting authority or explain or rationalize her argument. *Houghton v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003). In addition, we find no support in the record for such an assertion. Moreover, respondent's argument regarding the trial court's exercise of jurisdiction over the children is not properly before this Court. See MCR 3.993(A)(1); *In re Hatcher*, 443 Mich 426, 436, 444; 505 NW2d 834 (1993).

In reaching our conclusion, we reject respondent's arguments that petitioner failed to provide her with reasonable services to address her mental health issues and facilitate reunification. Respondent's reasonable efforts argument is unreserved, *In re Frey*, 297 Mich App 242, 247; 824 NW2d 569 (2012), and we review it for plain error affecting substantial rights, *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008).

Respondent argues on appeal that she was not provided with reasonable reunification efforts because the caseworker provided staff at Community Mental Health (CMH) with false information that respondent had been hospitalized twice for mental health issues even though she had only been hospitalized once. Respondent argues that, as a result, her relationship with CMH staff was "poisoned," thus resulting in her not benefitting from services. However, the record supports that the caseworker made a mistake by providing incorrect information and she wished to clear it up by contacting CMH staff. Respondent would not let her do so. Importantly, respondent was offered psychiatric services by CMH despite the caseworker's mistake, but

respondent nonetheless refused to attend services there for several months. See *In re Frey*, 297 Mich App at 248 (“While the DHS has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered.”). In addition, the record supports that CMH’s psychiatric examiner was aware that only one hospitalization occurred.

Respondent next argues that the caseworker interfered with her relationship with her first therapist when she was beginning to make progress by demanding that respondent see a different therapist. Respondent sought out her first therapist’s services on her own and began seeing her in October 2013. The caseworker did not interfere with the therapeutic relationship, but merely wanted respondent to see a therapist who was contracted by the department so that she would receive monthly progress updates. Further, contrary to respondent’s argument on appeal, the record does not support that she was making progress in therapy with her first therapist.

Respondent argues that she was not provided with reasonable reunification efforts because, at the May 20, 2014 review hearing, she was not in therapy because her second therapist indicated that she no longer wished to provide services to her. However, the record supports that it was respondent who discontinued therapy with the second therapist. Specifically, respondent ceased communicating with the second therapist because she was upset that the therapist had been sending updates to the trial court. Moreover, the record establishes that respondent was referred to Plainwell Counseling after she no longer participated in services with the second therapist, but respondent did not take advantage of this referral. See *In re Frey*, 297 Mich App at 248.

With respect to respondent’s argument that she was never referred for a second psychiatric evaluation, respondent requested a second psychiatric evaluation because she did not agree with the one completed by a CMH psychiatrist in March 2014. However, respondent refused to locate a psychiatrist with whom she felt comfortable working, stating “I don’t want a psychiatrist; end of story.” The caseworker attempted to locate a private psychiatrist but was referred to CMH, where respondent refused to engage in services after March 2014. *Id.* Respondent has failed to establish plain error. See *Rivette v Rose-Molina*, 278 Mich App 327, 328-329; 750 NW2d 603 (2008).

Lastly, respondent also challenges the trial court’s best-interest findings. “Once a statutory ground for termination has been proven, the trial court must find that termination is in the child[ren]’s best interests before it can terminate parental rights.” *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review a trial court’s finding that termination is in the minor children’s best interests for clear error. *In re HRC*, 286 Mich App at 459. “In deciding whether termination is in a child’s best interests, the court may consider 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 trial court may also look at evidence that the child is not safe with the parent, is thriving in foster care, and that the foster care home can provide stability and permanency. *In re VanDalen*, 293 Mich App at 141.

Here, any parent-child bond that existed was not healthy. LB was removed from respondent’s care the day after he was born. Respondent only saw him once each week during

parenting time, which he shared with DB and KB. Respondent was more attentive toward DB and KB, and respondent relied on a caseworker to soothe and ultimately care for LB when he was crying during a parenting time less than one month before termination because she became frustrated. At the time of termination, LB was seven months old and had been placed with the same foster parents for a majority of his life. See *In re Olive/Metts Minors*, 297 Mich App at 41-42. While DB and KB liked respondent, they did not always want to see her. They had been placed with their maternal grandmother for 16 months at the time of termination, and they viewed her as a mother figure. See *id.* DB and KB also had emotional difficulties before and after parenting visits at times during the proceeding, and they required therapy as a result. See *id.*

At the time of termination, DB and KB were 4-1/2 years old and LB was seven months old. They required permanency and stability. Respondent was unable to provide either at the time of termination, and there is no indication that she would be able to provide it in the future. At the time of termination, DB and KB were extremely bonded to their maternal grandmother, were doing well in her care, and the maternal grandmother wished to adopt them. See *In re VanDalen*, 293 Mich App at 141. LB was also doing well in his foster home, where he was comfortable, happy, and bonded to his foster parents. LB's foster parents wished to adopt him. See *id.* As the trial court recognized, although termination resulted in LB being separated from DB and KB, termination was necessary to ensure the safety and wellbeing of each of the children. See *In re Olive/Metts Minors*, 297 Mich App at 42. The record supports that the maternal grandmother would facilitate sibling contact in the future. The trial court did not clearly err in finding that termination of respondent's parental rights was in the minor children's best interests. *In re HRC*, 286 Mich App at 459.

Affirmed.

/s/ Jane M. Beckering  
/s/ Jane E. Markey  
/s/ Douglas B. Shapiro