

STATE OF MICHIGAN
COURT OF APPEALS

In re L. CHAMBERS, Minor.

UNPUBLISHED
June 16, 2015

No. 324748
St. Clair Circuit Court
Family Division
LC No. 13-000135-NA

Before: STEPHENS, P.J., and BORRELLO and GADOLA, JJ.

PER CURIAM.

Respondent V. Chambers appeals as of right the circuit court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons set forth in this opinion, we affirm.

This appeal arises from the termination of respondent's parental rights. Following the birth of the minor child, the Michigan Department of Health and Human Services (DHHS) filed a petition for jurisdiction and requested immediate termination of respondent's parental rights. The allegations in the initial petition set forth a history of medical and physical neglect involving respondent and other minor children. A referee initially found by a preponderance of the evidence that the minor child came within the court's jurisdiction under MCL 712A.2(b)(1) and (2), however, the referee denied the petition for termination of parental rights, finding that the statutory grounds for termination had not been established. The minor child was continued in foster care, and respondent was offered a services plan. Over the next 13 months, respondent made some progress, however, in the opinions of the workers and therapists assigned to this case, respondent was unable to adequately address her parenting and substance abuse issues. Following trial, the trial court terminated respondent's parental rights. This appeal then ensued.

On appeal, respondent argues that termination was improper under §§ MCL 712A.19b(3)(c)(i), (g), and (j) because most if not all of the conditions that led to the adjudication had been rectified. The trial court's finding that at least one statutory ground for termination has been proven by clear and convincing evidence is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K). "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 BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355-357; 612

NW2d 407 (2000); MCR 3.977(H)(3)(a) and (K). This proceeding was initiated because respondent had been substantiated for neglect in the past, leading to the termination of her parental rights to three other children, she used alcohol during her pregnancy with the minor child at issue here, which contributed to his premature birth. The referee denied a request to terminate respondent's parental rights to the child at the initial dispositional hearing and afforded respondent an opportunity to participate in reunification services. The initial dispositional order was entered 13 months before the supplemental petition was filed. Respondent was provided with services to address her parenting and substance abuse issues. Although respondent completed many services, "it is not enough to merely go through the motions; a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody." *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). "In other words, it is necessary, but not sufficient, to physically comply with the terms of a parent/agency agreement or case service plan." *Id.* Despite counseling and working with a parenting mentor, respondent continued to struggle with basic child-care issues such as comforting the child when he cried and knowing when and how to change his diaper. Respondent did not complete inpatient substance abuse treatment and, despite extensive outpatient treatment, she continued to use alcohol as confirmed by her own statements as well as by positive tests, with the most recent positive test occurring while the termination hearing was in progress. This evidence showed that the conditions that led to the adjudication continued to exist and the fact that respondent had made so little progress after a year showed that the conditions were not likely to be rectified, and that there was no reasonable expectation that respondent would be able to provide proper care and custody, within a reasonable time considering the child's age. In addition, given respondent's continued abuse of alcohol, and the recurrence of domestic violence in respondent's household, particularly when inebriated, there was a reasonable likelihood that the child would be harmed if returned to respondent's home. Accordingly, the trial court did not clearly err in finding that the evidence supported termination of respondent's parental rights under §§ 19b(3)(c)(i), (g), and (j).

Respondent also argues on appeal that termination of respondent's parental rights was not in the child's best interest. The trial court's decision regarding the child's best interests is reviewed for clear error. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014); MCR 3.977(K). "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 BZ*, 264 Mich App at 296-297.

Review of the record evidence leads us to conclude that that the trial court did not err in concluding that a preponderance of the evidence supported its decision regarding the child's best interests. MCL 712A.19b(5); *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). The minor child had been in foster care since birth and respondent had made negligible progress in overcoming the barriers to reunification. Respondent regularly attended family visits, but the minor child did not appear to be bonded to her. There was evidence that respondent did not know how to console the minor child when he cried and that he looked to the foster parent for comfort. In addition, respondent's proposed home was with a man with whom she had a history of instability and domestic violence. The last episode of domestic violence occurred when respondent was drinking, and the evidence clearly showed that she continued to drink alcohol. Accordingly, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCR 3.977(K).

Affirmed.

/s/ Cynthia Diane Stephens
/s/ Stephen L. Borrello
/s/ Michael F. Gadola