

STATE OF MICHIGAN
COURT OF APPEALS

In re IJU GIBSON, Minor.

UNPUBLISHED
September 22, 2015

No. 325629
Wayne Circuit Court
Family Division
LC No. 13-513070-NA

Before: K. F. KELLY, P.J., and CAVANAGH and SAAD, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to the minor child under MCL 712A.19b(3)(b)(i) (parent caused physical injury to child), (b)(ii) (parent had the opportunity to prevent physical injury to child), (c)(i) (conditions that led to adjudication continue to exist), (c)(ii) (other conditions causing the child to come within court’s jurisdiction exist and have not been rectified), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood that child will be harmed if returned to parent). We affirm.

Respondent argues that the trial court erred when it terminated her parental rights because none of the statutory grounds for termination were established by clear and convincing evidence. We disagree.

To terminate parental rights, the trial court must find at least one of the statutory grounds for termination listed in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review for clear error “the trial court’s factual findings and ultimate determinations on the statutory grounds for termination.” *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A decision is clearly erroneous if, although supported by evidence, this Court is left with a definite and firm conviction that a mistake was made. *Id.* at 709-710.

The trial court did not err in concluding that MCL 712A.19b(3)(b)(i) provided a statutory basis to terminate respondent’s parental rights. A trial court may terminate a respondent’s parental rights under MCL 712A.19b(3)(b)(i) if it finds by clear and convincing evidence that the child suffered physical injury, the parent’s act caused the injury, and there is a reasonable likelihood that the child will suffer from injury in the foreseeable future if placed in the parent’s home.

Here, respondent caused physical injury to the child when she abused cocaine and marijuana while pregnant with the child. Laveda Hoskins, a Child Protective Service worker,

testified that she was notified that the child was born with marijuana and cocaine in her system and respondent admitted that she used cocaine and marijuana while she was pregnant with the child. Further, there was a reasonable likelihood that the child would suffer from injury in the foreseeable future if placed in her home because respondent failed to address her substance abuse issues. She only completed five scheduled drug screens between July 2013 and July 2014, and three of the screens were positive for marijuana. Respondent did not complete any drug screens from July 2014 to December 2014. The last drug screen occurred on May 7, 2014. Respondent did not have a reason for missing the drug screens and there was no indication that she would participate in drug screens in the future. Thus, respondent did not demonstrate that she no longer had a substance abuse problem. In light of the record evidence, the trial court did not clearly err when it concluded that clear and convincing evidence supported termination of respondent's parental rights under MCL 712A.19b(3)(b)(i). Because only one statutory ground must be established by clear and convincing evidence, we need not address whether the trial court clearly erred in finding that the other grounds were proved. See *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). However, for the sake of thoroughness, we have considered those findings and conclude that the trial court did not err in holding that the grounds for termination set forth in MCL 712A.19b(3)(b)(ii), (c)(i), (c)(ii), (g), and (j) were also proved by clear and convincing evidence.

Respondent also argues that the trial court clearly erred when it terminated her parental rights because termination was not in the child's best interests. After review for clear error, we disagree. See *In re White*, 303 Mich App at 713.

A trial court must order the termination of a respondent's parental rights if the petitioner establishes a statutory ground for termination by clear and convincing evidence, and the trial court finds by a preponderance of the evidence that termination is in the child's best interests. *Id.* In making that determination, the court may consider numerous factors, including the parent's history, parenting ability, and participation in a treatment program, as well as the child's age and bond to the parent, the foster care environment, and the child's need for permanency, stability, and finality. *In re White*, 303 Mich App at 713-714; *In re Olive/Metts Minors*, 297 Mich App at 41-42.

The trial court did not err in finding that termination of respondent's parental rights was in the child's best interests. Respondent failed to comply with her service plan and failed to demonstrate that she had the ability to parent the child. Respondent was required to obtain housing, obtain a source of income, complete individual mental health counseling, complete parenting classes, complete substance abuse counseling, complete a psychological evaluation, and visit with the child. Respondent failed to complete the required drug screens as discussed above. Respondent's housing also changed at least four times during the pendency of the case and children were not permitted at her last location, Denby Shelter. Respondent also did not have an adequate source of income. Her last employment at the Salvation Army was seasonal and did not produce enough income for respondent to care for the child. Further, there was evidence that respondent did not have a close bond with the child and she did not have a strong visitation history with the child. In fact, the child did not want to leave her foster parent and would cry during visitation. Moreover, the evidence demonstrated that termination would provide the child with permanency, stability, and finality. Under the circumstances of this case, the trial court did not clearly err when it concluded that termination of respondent's parental

rights was in the child's best interests. See *In re White*, 303 Mich App at 713-714; *In re Olive/Metts Minors*, 297 Mich App at 41-42.

Finally, respondent argues that the trial court erred when it revoked Oscar Williams's acknowledgment of paternity. However, respondent does not have standing to challenge this decision. Williams appeared at a dispositional review hearing and told the court that he wanted to establish paternity. An affidavit of parentage was signed. However, after a DNA test determined that Williams was not the father, the trial court revoked paternity and noted that this was not a case in which Williams had acted as the child's father for her entire life. Williams has not challenged that decision. "Generally, persons do not have standing to assert constitutional or statutory rights on behalf of another person." *In re HRC*, 286 Mich App at 458.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Mark J. Cavanagh
/s/ Henry William Saad