

STATE OF MICHIGAN
COURT OF APPEALS

In re COBB/SWARTHOUT, Minors.

UNPUBLISHED
September 29, 2016

No. 329639
Midland Circuit Court
Family Division
LC No. 14-004426-NA

AFTER REMAND

Before: SAWYER, P.J., and HOEKSTRA and WILDER, JJ.

PER CURIAM.

This matter returns to us following our prior remand order,¹ in which we instructed the circuit court to reevaluate its best-interests determination in light of the minor children's placement with a relative, specifically their maternal grandmother. The circuit court has now complied with our remand instructions, and we affirm.

The pertinent facts are set forth in our prior opinion in this matter, *In re Cobb/Swarthout Minors*, unpublished opinion of the Court of Appeals, issued June 16, 2016 (Docket No. 329639). On appeal, respondent offers two claims of error regarding the circuit court's decision to terminate respondent's parental rights to the minor children involved in this appeal, CC and AC. First, respondent argues that the circuit court clearly erred by finding that termination was appropriate under MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons set forth in our prior opinion, see *id.* at 3-5, we are not left with a definite and firm conviction that the circuit court made a mistake. At least one statutory ground for termination was satisfied by clear and convincing evidence.

Second, respondent argues that the circuit court erred by finding, by a preponderance of the evidence, that termination was in the best interests of CC and AC. We disagree.

We review the trial court's best-interest determination for clear error. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286, 296 (2009). "A finding is clearly erroneous if the

¹ *In re Cobb/Swarthout Minors*, unpublished order of the Court of Appeals, entered June 16, 2016 (Docket No. 329639).

reviewing court is left with a definite and firm conviction that a mistake has been made.” *In re LaFrance Minors*, 306 Mich App 713, 723; 858 NW2d 143 (2014).

MCL 712A.19b(5) provides, “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.” “[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).

[T]he 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 701, 713-714; 846 NW2d 61 (2014) (footnotes, quotation marks, and citations omitted).]

“[T]he fact that the children are in the care of a relative at the time of the termination hearing is an explicit factor to consider in determining whether termination was in the children’s best interests[.]” *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012) (quotation marks and citation omitted).

On remand, the circuit court entered an order indicating that, notwithstanding the placement of CC and AC with their maternal grandmother, termination was nevertheless in the best interests of the children. The circuit court reasoned that termination was appropriate because (1) the children had no appreciable bond to respondent, (2) they were doing well in their placement with the maternal grandmother, (3) termination was the best means of affording the children stability and permanence, (4) the caseworker and guardian ad litem favored termination, (5) termination would afford the maternal grandmother an opportunity to adopt the children, and (6) termination would permit the children to remain with one of their siblings with whom the children have an established bond. After considering the record evidence, we are not firmly convinced that the circuit court made a mistake in this regard. On the contrary, we conclude that the circuit court’s best-interests determination was supported by at least a preponderance of the evidence.

Affirmed.

/s/ David H. Sawyer

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder