

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
January 15, 2013

In the Matter of DAVIDSON/BARRERA, Minors.

Nos. 311858; 311859
Kalamazoo Circuit Court
Family Division
LC No. 2010-000207-NA

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

PER CURIAM.

In these consolidated appeals, respondent father and respondent mother appeal as of right the trial court order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (ii), (g), and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence as to both respondents. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evidence supported the trial court's findings, as it established that the trial court took jurisdiction because of the respondents' substance abuse, criminality, and unstable housing. During the more than two years of the case proceedings, respondent father did not address his substance abuse issues. Respondent mother attended a substance abuse assessment and had several months of clean drug screens; however, in the last two months of the case, respondent mother stopped attending drug screens. Respondent father was incarcerated three separate times during the case and never secured appropriate housing. The conditions that led to adjudication for respondent father, specifically substance abuse, criminality, and unstable housing, continued to persist. In light of this evidence, the trial court did not err in concluding that there was no reasonable likelihood that these conditions would be rectified within a reasonable time considering the ages of the children. Thus, the trial court did not clearly err when it terminated his rights on this ground. MCL 712A.19b(3)(c)(i). Regarding respondent mother, she did address her unstable housing and did not have an issue of criminality during the case. However, the condition of substance abuse persisted and the trial court did not clearly err in terminating her rights on this ground. MCL 712A.19b(3)(c)(i).

Regarding MCL 712A.19b(3)(c)(ii), an additional condition that existed, as identified by the trial court, was respondents' failure to tend to the children's medical and mental health needs. The children had medical and mental health needs, and their treatment was limited when a parent did not attend appointments and meetings. Yet, respondent mother failed to attend appointments,

knowing her failure to attend would be a barrier to treatment and despite being notified of the appointments and assistance with transportation. Respondent father was unable to attend the meetings because he was either incarcerated or his parenting time was suspended because of his erratic behavior and failure to have clean drug screens. On this record, the trial court did not clearly err when it terminated both respondents' parental rights for failure to rectify the condition of failing to meet the children's medical needs when given the recommendations and opportunity to do so, and there was no indication the condition would be rectified in a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(ii).

The evidence also supported the trial court's findings that throughout this case respondents failed to participate in services to address domestic violence and never demonstrated an understanding of the harm domestic violence caused their children. Evidence supported the finding that the domestic violence and the parents' pattern of separating and getting back together continued throughout the case. Although respondent mother made some progress when respondent father was incarcerated, she regressed when respondent father was released and she appeared to intend to stay with him. Based on the troubled relationship, the harm this caused the children, and the respondents' unwillingness to address these issues, the trial court did not clearly err when it determined the parents had failed to provide proper care and custody, there was no reasonable likelihood they would be able to do so in a reasonable time considering the children's ages, and that there was a reasonable likelihood that the children would be harmed if returned to the home of the parents. MCL 712A.19b(3)(g) and (j).

Both respondents argue they were not offered sufficient time or services. "Generally, when a child is removed from the parents' custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan." *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009) (citation omitted). Despite respondents' arguments, the record is clear that the services offered included substance abuse assessments, psychological evaluations, counseling, drug screens, parenting time, and parenting classes. Respondent father did not participate in the vast majority of services when he was not incarcerated, while respondent mother sporadically participated in services. The services were offered, but respondents failed to fully or adequately participate.

Respondents also argue that the trial court erred in finding that termination was in the children's best interests because the children had a strong bond with the parents. MCL 712A.19b(5). A trial court's decision regarding a child's best interests is reviewed for clear error. *Trejo Minors*, 462 Mich at 356-357; MCR 3.977(K). A child's need for stability and permanency may be considered in determining best interests. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). A strong bond between a parent and a child can be outweighed by other considerations when determining whether termination is in the best interest of the children. *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). In this case, the children needed permanence and stability. There was evidence the instability of the two years of court proceedings was harmful to them. Although there was evidence that the children had a strong bond with respondents, this was outweighed by the children's need for permanence and stability. *Id.* Thus, the trial court did not clearly err in finding termination was in the child's best interests. MCL 712A.19b(5).

Affirmed.

/s/ Elizabeth L. Gleicher

/s/ Peter D. O'Connell

/s/ Christopher M. Murray