

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of L. C. HUBBARD, Minor.

UNPUBLISHED
March 20, 2014

No. 317341
Wayne Circuit Court
Family Division
LC No. 06-458881-NA

Before: BECKERING, P.J., and WILDER and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(a)(ii), (c)(i), (g), (i), (j), and (l). We affirm.

Respondent argues that the trial court erred in finding that the statutory grounds for termination were supported by clear and convincing evidence, and in finding that termination of her parental rights was in the child's best interests. We disagree.

Petitioner has the burden of proving a statutory ground for termination by clear and convincing evidence. MCR 3.977(A)(3); *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). Once a statutory ground for termination is proven, the trial court must determine whether termination of parental rights is in the child's best interests. MCL 712A.19b(5). We review the trial court's decision for clear error. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009); *In re Trejo Minors*, 462 Mich at 356-357. A decision is clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

The trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), (i), (j), and (l), which permit termination under the following circumstances:

(a) The child has been deserted under either of the following circumstances:

* * *

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child 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's age.

* * *

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

* * *

(l) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter or a similar law of another state.

Respondent accurately concedes that termination of her parental rights was justified under § 19b(3)(l). It is undisputed that respondent's parental rights to another child were terminated in a prior proceeding. This in itself is sufficient to establish the requisite statutory ground to terminate respondent's parental rights. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009) (holding that proof of only one statutory ground is sufficient). Nonetheless, petitioner successfully proved the remaining statutory grounds cited by the trial court.

Respondent was granted three opportunities to demonstrate that she was capable of providing adequate care for her child. Petitioner originally sought termination of respondent's parental rights at the initial dispositional hearing, but agreed to allow respondent the opportunity to achieve reunification by completing a treatment plan. In March 2012, petitioner agreed to

dismiss a pending petition for termination and allowed respondent more time to complete the plan. In November 2012, the trial court held a hearing on the third petition to terminate respondent's parental rights, and the trial court implicitly suggested that respondent's failure to comply with the treatment plan established statutory grounds for termination. However, the court allowed respondent another opportunity to "get it together" and to provide safe and proper care for the child. Respondent's third deliverance from loss of parental rights preceded her worst period of destabilization in the proceedings. From December 2012 until June 2013, respondent had no contact with her child or with petitioner. Respondent failed to visit the child, comply with drug screens, or attend therapy. And she failed to inform her caseworker of her whereabouts. In the earlier stages of the proceedings, respondent had employment and housing, but in the first half of 2013, she lived in various shelters and had no employment. Respondent previously stated in court that her marriage to the child's father was an impediment to her sobriety, but her marriage remained intact at the time of the termination hearing.

These circumstances establish grounds to terminate respondent's parental rights under §§19b(3)(a)(ii), (c)(i), (g), and (j). By remaining incommunicado from the time of the December 2012 hearing to the time of the June 2013 hearing, respondent deserted the minor child after the best interests hearing in December 2012. Respondent did not attend any of the procedural hearings held on February 1, March 12, April 24, or May 6, 2013. Respondent's excuse at the termination hearing was that neither she nor any of her relatives knew where the child was placed in foster care. However, during this time, respondent failed to contact petitioner or her attorney, despite apparently having Internet access to contact family members through Facebook. Consequently, the trial court did not err in determining that grounds for termination were present under § 19b(3)(a)(ii). Grounds also were present under § 19b(3)(c)(i) because respondent's substance abuse issues were present throughout these proceedings. Termination under §§ 19b(3)(g) and (j) was appropriate because respondent's failure to avoid drug use and to maintain a stable lifestyle posed constant risks to the minor child's safety and well-being. Termination under §§ 19b(3)(g) and (j) was also justified by respondent's decline into homelessness and her attachment to respondent-father despite his adverse influence on her. Respondent argues on appeal that the trial court failed to give due attention to her progress during these proceedings, but this argument disregards that respondent's progress stalled by the end of 2012.

Respondent argues that termination was not warranted under § 19b(3)(i) because she made good progress toward reunification in the early stages of the proceedings, thus, "there was no serious or chronic neglect . . . and prior attempts to rehabilitate [her] were successful[.]" Respondent's argument misapprehends the plain language of § 19b(3)(i), which provides grounds for termination where parental rights to one or more siblings of the child have been terminated due to serious and chronic neglect and prior attempts to rehabilitate have been unsuccessful. It is undisputed that respondent's parental rights to another child were previously terminated after the child was born with cocaine in his system and the mother later abandoned the child and failed in her efforts at rehabilitation. Accordingly, the trial court did not clearly err in finding that § 19b(3)(c)(i) was established by clear and convincing evidence. See *In re Trejo Minors*, 462 Mich at 356-357.

Ample evidence also supports the trial court's decision that termination was in the child's best interests. While respondent faltered in her treatment plan, her child's future remained uncertain. The child's attachment to respondent faded during her lengthy absences from his life.

The trial court did not clearly err in finding that the child's best interests required permanence in his formative years, which respondent could not provide. See *id.*

Affirmed.

/s/ Jane M. Beckering

/s/ Kurtis T. Wilder

/s/ Michael J. Riordan