

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DAMIAN KEITH GRAHAM,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHANA BRIDGEMAN,

Respondent-Appellant,

and

DAMIAN GRAHAM,

Respondent.

UNPUBLISHED

January 14, 2010

No. 291173

Wayne Circuit Court

Family Division

LC No. 02-414920-NA

Before: K. F. Kelly, P.J., and Hoekstra and Whitbeck, JJ.

PER CURIAM.

Respondent, Shana Bridgeman, appeals by right the trial court's order terminating her parental rights to the minor child.¹ We affirm. We have decided this appeal without oral argument.²

I. Basic Facts And Procedural History

This case began on December 16, 2002, when Bridgeman's child, R.B., then aged four months, was made a ward of the court and placed in foster care as a result of severe physical

¹ MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist); (g) (failure to provide proper care and custody); (i) (parental rights to another child were previously terminated due to serious neglect or abuse and previous attempts to rehabilitate the parent failed); (j) (reasonable likelihood of harm if child is returned to parent); and (l) (parental rights to another child were terminated). The father's parental rights were also terminated, but he is not a party to this appeal.

² MCR 7.214(E).

abuse by the biological father, who was incarcerated for the crime. The case continued with the birth and subsequent removal of Bridgeman's second child, K.B., who was born in October 2004. In September 2006, the trial court terminated Bridgeman's parental rights to R.B. and K.B.

D.B. was born in June 2007. Bridgeman and D.B. tested positive for marijuana at the time of his birth. The Department of Human Services (DHS) filed a petition for termination of Bridgeman's parental rights based on prior terminations, substance abuse, neglect, and risk of harm. A preliminary hearing was held in June 2007. D.B. was removed from Bridgeman just over a week after his birth, and the trial court authorized the petition. After pretrial, the trial court ordered that services be provided to Bridgeman pending trial and that Bridgeman be permitted supervised visitation at DHS, provided that her drug screens were negative. In addition, the trial court ordered a psychological and psychiatric evaluation.

A bench trial was held in August 2007. Robbie Nndem, child protective services worker, received the referral following D.B.'s birth, based on Bridgeman's previous terminations, substance abuse history, and the fact that Bridgeman and D.B. tested positive for marijuana. Bridgeman admitted use of marijuana about a week before the birth and told Nndem that she would immediately enter substance abuse treatment at Neighborhood Services Organization [NSO], where she had been in the past. Nndem did not know if Bridgeman actually entered treatment. Bridgeman denied any other drug or alcohol use, but Nndem stated that marijuana use was an issue in the prior terminations. Bridgeman told Nndem that she had been on medication for depression and had been in Aurora, a now-closed mental hospital for minors, when she was a minor. Nndem was concerned because of Bridgeman's history of depression, mental health issues, and continued use of marijuana. Bridgeman was living in subsidized housing, and her rent was \$141 a month. Bridgeman received \$626 a month from SSI, for being emotionally impaired. Bridgeman told Nndem that she had prenatal care for D.B., but Nndem was not able to confirm that. According to Nndem, no services were offered to Bridgeman because of the prior terminations and the permanent custody petition. Nndem opined that Bridgeman would need services indefinitely in order to stay "on track" and be able to care for her child. Nndem knew of no program that offered services indefinitely. Nndem opined that Bridgeman might not be able to grasp what was taught in parenting classes because of her "limitations." Nndem recommended that termination of Bridgeman's parental rights to D.B. would be in his best interest.

The trial court ordered a psychiatric evaluation and medication, if necessary. The trial court also ordered random drug screens, parenting classes, continued supervised visitation, individual counseling, and that Bridgeman maintain legal income and suitable housing.

In October 2007, a dispositional hearing was held. All of Bridgeman's drug screens were negative. Bridgeman was given unsupervised parenting time, and the trial court ordered the implementation of her treatment plan. However, at a January 2008 dispositional review hearing, it was reported that Bridgeman submitted a screen that was positive for cocaine, and she had not submitted another screen in over a month. She had missed some visits and was regularly late for those she attended. The trial court ordered that an immediate drug screen be taken. The trial court ordered parenting classes, and stated that Bridgeman would have supervised parenting time, but only if the screens were clean.

At a dispositional review hearing in April 2008, it was reported that Bridgeman had completed psychological and psychiatric evaluations. She was not visiting with D.B. because she had done only one of 13 drug screens, and one was positive for marijuana. Bridgeman was not in compliance with a substance abuse assessment. She was early terminated from the parenting class due to a lack of cooperation. She did not have safe and suitable housing and did not do the medical review to assess her medication needs. DHS wanted to file a permanent custody petition immediately. Notably, DHS had been informed that Bridgeman was again pregnant and was concerned that she was using drugs while pregnant. The trial court ordered an immediate drug screen, a medical examination to determine if she was pregnant, and substance abuse treatment.

In July 2008, it was reported that Bridgeman had received referrals for parenting classes, individual counseling, and random drug screens. Bridgeman had been placed in an outpatient program, but had not received court-ordered inpatient drug treatment. The trial court ordered that Bridgeman be placed in an inpatient program or the court would bring the “responsible persons” into the court to find out why. Bridgeman had not done drug screens in three months. The trial court ordered DHS to initiate proceedings to terminate Bridgeman’s parental rights.

In September 2008, a permanency planning hearing was held. The petition for termination had been prepared, but not yet filed. The agency reported that Bridgeman was attending substance abuse treatment, counseling, and had entered and completed a 30-day inpatient treatment program. She had attended parenting classes and individual therapy and did a Clinic for Child Study. She was working on her GED. The trial court told Bridgeman that it was pleased with the report. The agency requested that the trial court order weekly random drug screens and GED classes, to which the court agreed. The petition for termination was filed on October 1, 2008, however, and pretrial was held in December 2008.

Trial was held in March 2009. Jasmin Williams, foster care caseworker since July 1, 2008, filed the supplemental petition for permanent custody. Williams testified she had spoken with Bridgeman at least four times about her need to stop smoking marijuana if she wanted to have her child. Bridgeman responded by saying that she understood, but she was stressed. Bridgeman’s excuse for not taking drug screens was lack of transportation. However, Bridgeman was provided weekly bus tickets on an ongoing basis. Williams also testified that Bridgeman satisfactorily completed parenting classes and that her apartment was appropriate. According to Williams, in September 2007, Bridgeman had a psychological and a psychiatric evaluation with psychiatrist Margaret M. Casey. Bridgeman was diagnosed with “schizophrenia, cannabis dependence, neglect of the child, learning disorder, border line intellectual function, obesity, legal problems, and impairment of judgment, and thinking.” Bridgeman had been prescribed Zoloft for depression and Seroquil for mood stability. When Williams asked Bridgeman about the medications, Bridgeman stated that she was not taking the medication because she was unable to schedule a monthly medication review, she lacked transportation, and the therapist did not provide bus tickets.

Williams further testified that D.B.’s bond was with his maternal grandmother. Williams believed that termination of Bridgeman’s parental rights would be in D.B.’s best interests because Bridgeman was not able to provide consistency and stability. D.B. was now almost two. Further, Dr. Casey, the psychiatrist who did the recent evaluations, did not recommend

reunification. Williams believed that nothing had changed since that report to favor reunification.

Bridgeman admitted that she had not addressed her emotional problems, had not been consistent with her drug screens, and was still smoking marijuana. In fact, she admitted to smoking marijuana two weeks before trial. She knew that in order to be a mother to D.B., she had to stop smoking marijuana. Bridgeman explained that she could not stop smoking marijuana because she used it to substitute for her medication, which she had a difficult time obtaining due to lack of transportation. She explained that she did not show up for the drug screens because she did not want to “be bothered with nobody . . . society or anything, I didn’t even want to be bothered with mah (sic) kids. . . . I just didn’t want to do it.” She knew that her parental rights hinged on those drug tests, but she still failed to do them.

Following the parties’ arguments, the trial court found that Bridgeman had not addressed her marijuana problem. She had been using marijuana for “literally half of her life” and was not going to make any effort toward achieving a drug-free life. The trial court and DHS had made “heroic efforts” to rehabilitate Bridgeman, including inpatient treatment. The trial court found clear and convincing evidence to terminate Bridgeman’s parental rights under MCL 712A.19b(3)(c)(i), (g), (i), (j), and (l). The trial court also found that termination of Bridgeman’s parental rights was in the child’s best interests.

II. Statutory Grounds For Termination

A. Standard Of Review

To terminate parental rights, the trial court must find that the petitioner has proven at least one of the statutory grounds for termination by clear and convincing evidence.³ We review for clear error a trial court’s decision terminating parental rights.⁴ A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made.⁵ We give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.⁶

B. Analysis

Bridgeman challenges the finding that the statutory grounds for termination were established. First, we note that clear and convincing evidence supported termination of Bridgeman’s parental rights under MCL 712A.19b(3)(i) and (l). There was no dispute that her parental rights were previously terminated to two other children and prior attempts to rehabilitate Bridgeman had been unsuccessful. The other statutory sections were also proven. The

³ MCL 712A.19b(3); *In re Sours Minors*, 459 Mich 624, 632; 593 NW2d 520 (1999).

⁴ MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 633.

⁵ *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

⁶ MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

termination trial was held over a year and a half after the initial order. The conditions that led to the adjudication were the same issues that had led to Bridgeman's earlier terminations: addiction to marijuana and failure to address her mental health issues. Despite numerous efforts to help Bridgeman, these conditions still existed at the time of the termination hearing. Bridgeman failed to comply with her treatment plan, despite inpatient treatment, outpatient treatment, the availability of counseling, and other services.⁷ She continued to use marijuana and did not comply with drug screens or counseling. Even when permitted, she rarely visited the child. She continued to blame her workers and others for her failure to comply. Although she completed a parenting class and underwent her psychiatric and psychological evaluations, there was no evidence that she learned or benefited from them.⁸ Her continued use of marijuana, her mental health problems, and her failure to obtain and stay on the medication that could have helped her were a great threat to the child's safety. Her entire attitude is best expressed in the statement that she did not want to be bothered with her children.

We conclude that the trial court did not clearly err in finding that statutory grounds for termination of Bridgeman's parental rights were established by clear and convincing evidence.

III. Best Interests Determination

A. Standard Of Review

Once a petitioner has established a statutory ground for termination by clear and convincing evidence, if the trial court also finds from evidence on the whole record that termination is clearly in the child's best interests, then the trial court shall order termination of parental rights.⁹ There is no specific burden on either party to present evidence of the children's best interests; rather, the trial court should weigh all evidence available.¹⁰ We review the trial court's decision regarding the child's best interests for clear error.¹¹

B. Analysis

Bridgeman does not contest the trial court's finding that termination of her parental rights was in the child's best interests. And we find no clear error in the trial court's determination.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Joel P. Hoekstra
/s/ William C. Whitbeck

⁷ See *In re JK*, 468 Mich at 214; *Trejo*, 462 Mich at 360-363, 361, n 16.

⁸ See *In re JK*, 468 Mich at 214; *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

⁹ MCL 712A.19b(5); *Trejo*, 462 Mich at 350.

¹⁰ *Trejo*, 462 Mich at 354.

¹¹ *Id.* at 356-357.