STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
June 2, 2011

In the Matter of G. M. TALSO, Minor.

No. 300676
Houghton Circuit Court
Family Division
LC No. 2008-000020-NA

Before: RONAYNE KRAUSE, P.J., and SERVITTO and GLEICHER, JJ.

PER CURIAM.

Respondent D. Benson appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (j). We are impressed with the commendable performance and helpful oral argument presentation from respondent's attorney, but on this record, we are constrained to affirm.

"The proofs supporting a court's termination decision must qualify at least as clear and convincing." *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). We review the trial court's findings of fact for clear error, giving deference to the trial court's superior opportunity to judge the weight of the evidence and the credibility of the witnesses who appeared before it. MCR 3.977(K); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Questions of law involving the interpretation of a statute or court rule are reviewed de novo. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008); *In re RFF*, 242 Mich App 188, 198; 617 NW2d 745 (2000). Because child protection proceedings are treated as a single continuous proceeding, evidence admitted at one hearing may appropriately be considered at all subsequent hearings. *In re LaFlure*, 48 Mich App 377, 391; 210 NW2d 482 (1973).

The trial court did not clearly err in finding that § 19b(3)(c)(*i*) was established by clear and convincing evidence. The relevant inquiry under this subsection is not whether there was a change in the conditions that led to the adjudication, but rather whether the conditions were rectified and, if not, whether they are reasonably likely to be rectified within a reasonable time considering the child's age. A court may apprise itself of all relevant circumstances when evaluating the conditions that led to the adjudication. *In re Jackson*, 199 Mich App 22, 26; 501 NW2d 182 (1993). Here, the trial court appropriately viewed the conditions that led to the adjudication as essentially involving a "failure to protect type of case."

Respondent's own plea of admission established her inability to prevent other children from entering her home and interacting with her young child, despite receiving services to

improve her parenting skills and establish a safe home environment for the child. This led to an incident in which a ten-year-old held the child outside a second-story window, and a fourteen-year-old then bounced the child on a rooftop outside the same window, while respondent was present. Although there was evidence that respondent made enough progress to allow her to have expanded parenting in her home, a parent must sufficiently benefit from services to enable the court to find that she is able to provide a safe home for the child. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). The evidence showed that respondent simply was not able to progress beyond a certain point, and she was unable to make her environment safe.

Respondent also elected to stop participating in her case service plan and move to Tennessee to live with a man she had recently met through the Internet and for "something different," despite being explicitly warned that moving to Tennessee could cause her to lose her rights to the child. We disagree with respondent's argument that her new relationship was the type of community support envisioned by the psychologist who evaluated respondent. Rather, as the trial court found, respondent's decision to distance herself from her child was indicative of her abandonment of the child, or at least an uncaring attitude, and had no good cause. By moving to Tennessee, respondent removed herself from services, including regular parenting time with the child. Respondent visited the child when she returned to Michigan to pick up her belongings and attend court hearings, telephoned the child from Tennessee, took a parenting class and had a home study conducted in Tennessee. However, with only one exception, respondent *only* visited the child when she came to Michigan for court hearings, and the home study's findings were not reassuring. The Senior Psychological Examiner's report stopped just short of saying outright that respondent's verbal statements of desire to be with her child ring hollow; certainly, the trial court had ample evidence from which to conclude that respondent's actions totally belied her words.

In addition, while the reasonableness of the services offered by petitioner to a parent may affect the sufficiency of the evidence to establish a statutory ground for termination, *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005), we find no clear error in the trial court's finding that petitioner made reasonable efforts to preserve and reunify the family. The record reflects that petitioner offered several services to respondent, and that it was respondent who decided to discontinue her participation in the services by moving to Tennessee. While we are, again, impressed with counsel's performance, we are simply unable to find from a consideration of the entire record that the trial court committed clear error in its determination that § 19b(3)(c)(*i*) was established by clear and convincing evidence.

While only one statutory ground for termination is required, *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000), the same evidence that supports the trial court's decision with respect to § 19b(3)(c)(*i*) also supports its determination that §§ 19b(3)(g) and (j) were each established by clear and convincing evidence.

To the extent respondent argues that the trial court's findings were insufficient, we disagree. Under MCR 3.977(I)(1) "[b]rief, definite, and pertinent findings and conclusions on contested matters are sufficient." The trial court's findings in this case met this standard and are sufficient to facilitate appellate review. *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176; 530 NW2d 772 (1995). To the extent respondent suggests that it was inappropriate for the trial court to consider the risk of harm to the child's mental well-being, we

also disagree. *In re Trejo*, 462 Mich 341, 346 n 3; 612 NW2d 407 (2000); see also MCR 3.976(E)(2); MCL 712A.19a(5). Further, we find no clear error in the trial court's findings with respect to the lack of bonding or attachment between respondent and the child. *In re JK*, 468 Mich at 209. Finally, respondent's generalized allegations concerning the relevancy of the child's reactive attachment disorder diagnosis lack citation to supporting authority and do not identify any legal basis for excluding the testimony. Respondent may not leave it to this Court to rationalize the basis for her claims and search for authority either to sustain or reject her position. *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).

Lastly, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *In re JK*, 468 Mich at 209; *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). The evidence showed that the child's progress would be destroyed and that she would, in fact, be traumatized if she was returned to respondent's care. The child did not feel safe or secure with respondent, which is unsurprising given the record and respondent's failure to manifest any indication that her stated desires to be with the child were genuine. "[W]hile it is inappropriate for a court to consider the advantages of a foster home in deciding whether a statutory ground for termination has been established, such considerations *are* appropriate in a best-interests determination." *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009) (emphasis added).

Affirmed.

/s/ Amy Ronayne Krause
/s/ Deborah A. Servitto
/s/ Elizabeth L. Gleicher