STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
June 7, 2011

In the Matter of MJM and LCM, Minors.

No. 299893
Wayne Circuit Court
Family Division
LC No. 07-463517

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Before: GLEICHER, P.J., and SAWYER and MARKEY, JJ.

PER CURIAM.

In this child protective proceeding, respondents, the parents of the involved minor children, MJM and LCM, appeal as of right circuit court orders terminating their parental rights to the children.[1] The circuit court found termination concerning MJM, respondents' daughter, warranted pursuant to MCL 712A.19b(3)(c)(*ii*), (g), and (j). The court deemed termination of respondents' parental rights to their son, LCM, appropriate under MCL 712A.19b(3)(b)(*i*), (g), (j), and (*l*). We affirm.

The child protective proceeding relating to MJM commenced in January 2007, when the Department of Human Services (DHS) filed a petition seeking temporary custody of the then five-month-old child. The petition alleged that a homeless shelter had evicted respondent-mother after she tried "to fight the staff members," and that respondent-mother "was transported to Henry Ford Hospital" due to "mental health issues," in the course of which respondent-mother "attempted to put a plastic cover over . . . [MJM's] face." The circuit court exercised jurisdiction

[1] This Court consolidated the separate appeals of respondent-mother and respondent-father. *In re MJM & LCM, Minors*, unpublished order of the Court of Appeals, entered 9/1/10 (Docket Nos. 299893, 299894).

over the child on the basis of respondent-mother's admissions to arguing with a staff member at the homeless shelter, allowing prescription medication for bipolar disorder to lapse, and spending a week in a psychiatric hospital, during which she had no one to care for MJM. Respondent-mother signed a parent-agency agreement obligating her to obtain suitable housing and legal employment, undergo a psychological evaluation, attend supervised parenting times, and participate in parenting classes and individual counseling. In June 2007, respondent-father executed an affidavit acknowledging paternity of MJM, and consented to participate with respondent-mother in a virtually identical parent-agency agreement.

Between June 2007 and December 2007, respondents achieved commendable progress toward satisfying the components of their treatment plans. But in January 2008, respondents had a domestic violence entanglement that resulted in police intervention, and in May 2008 a second domestic violence event occurred. After the second incident, respondent-father stopped attending parenting times with MJM and expressed disinterest in planning for her. In July 2008, the police ticketed respondent-mother for consuming alcohol in public, and she later entered a psychiatric hospital. At a permanency planning hearing in August 2008, foster care worker Cheri St. Pierre informed the court that respondents shared a "volatile" relationship and respondent-mother lacked housing. The circuit court ordered that respondent-mother submit to random drug screens and the DHS file a permanent custody petition.

In March 2009, the DHS filed a supplemental petition seeking termination of respondents' parental rights to MJM. The permanent custody petition highlighted that respondent-father had not attended a parenting time with MJM since May 2008, respondent-mother had been hospitalized multiple times for mental health reasons, and respondent-mother had a current pregnancy that rendered her unable to take her psychiatric medications. In August 2009, respondent-mother bore LCM. At birth, the child tested positive for marijuana, and respondent-mother admitted to using marijuana during her pregnancy. On August 15, 2009, the DHS petitioned to remove LCM from respondents' care, and the circuit court authorized the petition.

On August 24, 2009, the circuit court ordered that respondents submit to a drug screen, and both tested positive for marijuana. Shortly thereafter, the DHS filed an amended petition requesting termination of respondents' parental rights to LCM. In January 2010, the circuit court commenced a termination hearing concerning the supplemental petition seeking termination of respondents' parental rights to MJM. St. Pierre described in detail the services offered to respondents and their history of inconsistent compliance. After St. Pierre concluded her testimony, the circuit court ordered that respondents undergo drug screens and participate in an evaluation by the Clinic for Child Study (CCS). Both respondents again tested positive for marijuana. Dr. Kai Anderson, a CCS psychiatrist, subsequently opined that respondents' long histories of psychiatric illness, domestic disputes, and cannabis abuse rendered their prognosis for providing the children with a safe and stable home environment "poor to guarded."

When MCM's termination hearing resumed in April 2010, St. Pierre recounted that neither respondent had submitted a drug screen since the prior hearing, and that both conceded that their screens would test positive for marijuana. Respondents declined to present evidence at the hearing, and instead urged the court to afford them more time to participate in additional services. In a bench opinion, the circuit court found that although respondents "have done the

best they can under the circumstances," they lacked the ability to parent their children, and "it doesn't appear that that can be rectified in the near future." The circuit court observed that MCM had spent most of her life in foster care, and concluded that termination of respondents' parental rights would serve her best interests. The court then conducted a brief hearing regarding LCM's permanent custody petition. Invoking respondents' substance abuse, mental health and domestic violence issues, the circuit court terminated respondents' parental rights to LCM, and found that termination served his best interests.

Respondents now contest the circuit court's termination rulings. The petitioner bears the burden of proving a statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once the petitioner has proven a statutory ground for termination by clear and convincing evidence, the circuit court must order termination if "termination of parental rights is in the child's best interests." MCL 712A.19b(5). We review for clear error a circuit court's decision to terminate parental rights. MCR 3.977(K). The clear error standard controls our review of "both the court's decision that a ground for termination has been proven by clear and convincing evidence and, where appropriate, the court's decision regarding the child's best interest." *In re Trejo*, 462 Mich at 356-357. A decision qualifies as clearly erroneous when, "although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). Clear error signifies a decision that strikes us as more than just maybe or probably wrong. *In re Trejo*, 462 Mich at 356.

Respondents dispute that the record contains clear and convincing evidence of their parental unfitness under any statutory ground invoked by the circuit court. The DHS concedes that the record lacks clear and convincing evidence of respondent-father's unfitness under MCL 712A.19b(3)(b)(*i*). But only one statutory ground need exist to justify termination of parental rights. MCL 712A.19b(3); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Accordingly, we turn our consideration to respondents' challenge to the record evidentiary support of MCL 712A.19b(3)(g), which authorizes termination of parental rights when "[t]he 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." The record establishes that notwithstanding respondents' participation in several services, including lengthy psychological counseling, respondents continued to struggle with persistent mental health problems. Respondent-mother underwent at least two hospitalizations for psychiatric care during the proceedings, and acknowledged that she intended to continue her long history of abusing cannabis by pursuing a medical marijuana certificate. Respondent-father engaged in two episodes of domestic violence after MJM's placement in foster care, discontinued contact with the child for nearly a year, and persistently tested positive for marijuana use. Clear and convincing evidence substantiated that despite respondents' progress toward improving their parenting skills, they still engaged in two episodes of domestic violence, continued to abuse substances, and never achieved a sustained period of mental health stability. This evidence, in conjunction with Dr. Anderson's characterization of respondents' prognosis as poor to guarded, clearly and convincingly shows respondents' inability to give their children proper care and custody, and that no reasonable expectation existed that respondents might properly parent the children within a reasonable time.

Furthermore, we detect no clear error in the circuit court's ruling that termination of respondents' parental rights served the children's best interests. MCL 712A.19b(5). Although respondent-mother and MJM shared a bond, the child had resided in foster care for the majority of her life. Similarly, LCM, who tested positive for marijuana at birth, remained in foster care throughout the entirety of his young life. Respondents' inconsistent commitment to parenting and their unwillingness to discontinue their chronic marijuana use amply support the circuit court's best interest findings.

We lastly address respondent-father's contention that the DHS neglected to pursue reasonable efforts to reunite him with the children. The record documents that, among other services, the DHS offered respondent-father couples therapy, parenting classes, an intensive parenting advocate, and in-home services to assist in addressing his parenting issues, housing concerns, and the children's health issues. Respondent-father sporadically took advantage of available treatment for his psychiatric illness, and took no initiative to pursue substance abuse-related services suggested by his case worker. In summary, the record reveals no support for respondent-father's claim that the DHS offered him unreasonable or inadequate reunification efforts and assistance.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ David H. Sawyer
/s/ Jane E. Markey