

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SNS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER BONITA BOUIE,

Respondent-Appellant,

and

LAMARR SPENCER,

Respondent.

UNPUBLISHED

January 28, 2010

No. 293693

Kent Circuit Court

Family Division

LC No. 08-052395-NA

Before: Donofrio, P.J., and Meter and Murray, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g).¹ We affirm.

On appeal, respondent does not challenge the existence of at least one statutory ground for terminating her parental rights. Rather, she argues that termination of her parental rights was not in the best interests of SNS. We disagree.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interest of the child. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999).

¹ The parental rights of the child's father, Lamarr Spencer, were also terminated but he is not a party to this appeal. References to "respondent" in the singular throughout this opinion are to respondent mother only.

The trial court did not clearly err in its best interest determination because there is no evidence of a strong bond between respondent and SNS. There was testimony that, at a recent visit, SNS exhibited stranger anxiety with respondent. When respondent was given the opportunity to develop her relationship with SNS through parenting time, she disappeared and stopped visiting for four months, jeopardizing any bond they may have had.

Furthermore, it is in SNS's best interest to be raised in a drug free, stable environment, which respondent is unable to provide. Respondent's substance abuse and untreated mental illness would put SNS at risk of harm. In minimizing her drug addiction and contending that her substance abuse was not severe enough to endanger SNS, respondent demonstrates her lack of suitability to parent.

Furthermore, it is also in SNS's best interest to be cared for by someone who can provide for her basic needs. By the time of the permanent custody hearing, respondent did not have housing or employment. There is no evidence that respondent can provide a suitable home for SNS or that she has the financial means to support her. "If a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent." *In re Terry* 240 Mich App 14, 28; 610 NW2d 563 (2000), quoting *In re AP*, 1999 PA Super 78; 728 A2d 375, 379 (1999). Thus, there was no evidence to show that the court clearly erred in its best interest determination.

In addition, contrary to respondent's assertion, SNS's removal was necessary due to the risk of harm her severe drug problem and mental illness posed to SNS. Respondent contends the trial court "sabotaged" her by removing SNS from her care and blames the court for her failure to comply with the treatment plan. In not taking responsibility for herself and not demonstrating a commitment to SNS by participating in services, respondent showed that she was not a fit parent. Moreover, even if she had been fully compliant with her treatment plan, she could not safely parent SNS until she stopped using drugs.

Respondent also argues the trial court erred in determining that petitioner had made reasonable efforts to prevent SNS's removal from her care and custody. MCL 712A.18f; MCR 3.965(D)(1). Respondent's argument is contrary to the trial record. Respondent had multiple prevention services, including parenting classes, but SNS could not safely be maintained in respondent's care once her drug addiction became apparent. Respondent also argues that petitioner did not make reasonable efforts to prevent termination of her parental rights. After a child has been removed, petitioner must make reasonable efforts to reunite a respondent and her child through a treatment plan and referrals. *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005). Following SNS's removal, the caseworkers repeatedly attempted to meet with respondent, referred her for services, and offered their help but respondent was disinterested and unmotivated.

Respondent contends that given her mental health issues, more than routine referrals needed to be made to assist her. "[I]f the [DHS] fails to take into account the [parent's] limitations or disabilities and make any reasonable accommodations, then it cannot be found that reasonable efforts were made to reunite the family." *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000). Despite respondent's assertion, the evidence showed that the caseworkers were aware that her mental health was a priority and were doing everything they could to get her to seek therapy and treatment and to take her medication. To that end, in addition to making

referrals, they assisted her in scheduling appointments. Also, respondent was given a psychiatric evaluation and prescribed medication in November 2008 to assist in stabilizing her moods. Against medical opinion, she discontinued taking her prescribed medication. Thus, respondent's limitations were taken into account, but she chose not to make the necessary effort and compromised herself.

Finally, the absence of reasonable efforts by the petitioner has only been relevant to assessing whether the statutory grounds for termination were established. See, e.g., *In re Newman*, 189 Mich App 61, 65-68; 472 NW2d 38 (1991). Here, the trial court did not clearly err in terminating respondent's parental rights under two statutory bases because she failed to take advantage of the services offered to her and not because of petitioner's failure to make efforts. Also, respondent does not suggest what services were denied to her or what other efforts could have been made while SNS was in foster care. Moreover, petitioner could not have facilitated services from December 2008 through April 2009 because respondent disappeared and never disclosed her whereabouts to petitioner. And, had respondent felt that petitioner was not properly servicing the case, the trial court's orders should have been challenged by the filing of an application for leave pursuant to MCR 3.993(B). In this case, the evidence showed petitioner consistently made reasonable efforts to prevent SNS's removal and to facilitate reunification, but respondent did not avail herself of services or sufficiently benefit from them. Thus, the trial court did not clearly err in finding that petitioner had made reasonable efforts to assist respondent.

Affirmed.

/s/ Pat M. Donofrio
/s/ Patrick M. Meter
/s/ Christopher M. Murray