

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of POWELL Minors.

UNPUBLISHED
June 22, 2010
No. 295515
Tuscola Circuit Court
Family Division
LC No. 07-009478-NA

Before: METER, P.J., and SERVITTO and BECKERING, JJ.

PER CURIAM.

Respondent T. McTaggart appeals as of right from the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

A statutory basis for termination must be proven by clear and convincing evidence. MCR 3.977(F)(1)(b) and (H)(3); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989). The trial court's findings of fact are reviewed for clear error and may be set aside if, even though there is evidence to support them, the reviewing court is left with a definite and firm conviction that a mistake has been made. MCR 3.977(K); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). Due regard is given to the trial court's special opportunity to judge the credibility of witnesses. *In re Miller*, 433 Mich at 337.

The adjudication for the three oldest children was based, in part, on respondent's failure to take proper advantage of various services.¹ The evidence showed that this failure continued and was not likely to be rectified within a reasonable time. MCL 712A.19b(3)(c)(i). Numerous services were provided to respondent, even after R. Powell's incarceration in September 2008,² but she failed to consistently participate in the services and did not sufficiently benefit from them, and little had changed since the three oldest children were removed from respondent's care in March 2008. Respondent was offered three types of in-home therapy, including parenting classes and role modeling, but failed to make progress with those services. She also made insufficient progress during five months of counseling with Rick Watkins in 2009.

¹ Jurisdiction over the youngest child was obtained at a later date, and we note that respondent does not challenge the assumption of jurisdiction on appeal. The statutory basis in MCL 712A.19b(3)(c)(i) does not apply to the youngest child but the remaining three bases do apply.

² Respondent claims on appeal that Powell hindered her participation in services.

Further, respondent failed to address her substance abuse problem, and she did not cooperate with one child's speech therapy. Respondent also never accepted responsibility for the children being repeatedly taken into care and was unable or unwilling to address her emotional immaturity in order to put the children's needs first. These were new conditions arising after the initial adjudication, respondent had been offered and had failed to adequately benefit from various parenting-related services, and there was no reasonable likelihood that the conditions would be rectified within a reasonable time. MCL 712A.19b(3)(c)(ii).

In addition, respondent did not maintain suitable housing or have adequate transportation, and was working only one day a week. She was willing to secure housing with a new boyfriend, but that person had previously stolen from her, had been accused of criminal sexual conduct involving "his siblings and maybe a cousin," and had been told that he could not supervise or be left alone with young children. Further, respondent claimed that she had done the best she could to comply with services, but the evidence clearly showed that she had not adequately benefited from services, despite being given ample time and opportunity to do so. Accordingly, there was no reasonable likelihood that additional services would enable respondent to rectify the various unacceptable conditions related to her parenting and be in a position to provide proper care and custody within a reasonable time. MCL 712A.19b(3)(c)(g). Finally, considering respondent's history of failing to provide a safe and suitable home for the children, her failure to benefit from needed services, and her willingness to live with someone not suitable to be around young children, there was a reasonable likelihood that the children would be harmed if returned to respondent's home. MCL 712A.19b(3)(c)(j).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.

Affirmed.

/s/ Patrick M. Meter
/s/ Deborah A. Servitto
/s/ Jane M. Beckering