

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 16, 2010

In the Matter of HANEY, Minors.

No. 297655
Ionia Circuit Court
Family Division
LC Nos. 09-000009-NA
09-000010-NA
09-000011-NA
09-000012-NA

Before: M. J. KELLY, P.J., and K. F. KELLY and BORRELLO, JJ.

PER CURIAM.

Respondent mother appeals by right the trial court's order terminating her parental rights to her four children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

I. STANDARD OF REVIEW

We review for clear error both the trial court's decision that statutory grounds for termination have been proven by clear and convincing evidence and its best interests determination. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "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 Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009) (citation omitted). Termination of parental rights is proper if at least one statutory ground for termination is established by clear and convincing evidence and the trial court finds that termination is in the child's best interest. MCL 712A.19b(5). Further, a trial court's finding regarding whether reasonable reunification efforts were made is a question of fact that we also review for clear error. MCR 3.977(K).

II. REUNIFICATION EFFORTS

At the outset, respondent asserts that petitioner did not make reasonable efforts to reunite her with the children. Specifically, respondent criticizes petitioner's decision to place the children with relatives an hour and half drive away from respondent and requiring respondent to call before visits. She contends the placement and phone call requirement created barriers to visitation. We disagree. When a child is removed from a parent's custody and reunification is the goal, petitioner is required to make reasonable efforts at reunification by adopting a service plan. MCL 712A.18f(1), (2), (4). A failure to make reasonable efforts at reunification may

prevent petitioner from establishing the statutory grounds for termination. See *In re Newman*, 189 Mich App 61, 67-68, 70; 472 NW2d 38 (1991).

Under the circumstances, visitation certainly required respondent to travel. However, petitioner provided respondent with gas cards and the telephone number of a transportation service to assist with transportation to these visits. Respondent admitted that she chose not to use this service, except on one occasion, and failed to tell her Wraparound coordinator that she needed further assistance. Respondent also did not attempt to obtain her driver's license, despite having access to a vehicle and there being nothing from preventing her from obtaining a license. Moreover, the requirement that respondent call before visits was only mandated after respondent missed many visits and it became clear that her inconsistency had affected the children. Thus, it appears that respondent's own failure to use the services provided led to her missed visits, rather than a lack of reasonable efforts on petitioner's part. Accordingly, we conclude that the trial court did not clearly err by finding that reasonable efforts at reunification were made.

III. GROUNDS FOR TERMINATION

Respondent next contends that the trial court erred by finding that clear and convincing evidence supported the statutory grounds for termination. We disagree. In our view, clear and convincing evidence warrants termination of respondent's parental rights under MCL 712A.19b(3)(c)(i). The conditions leading to adjudication were respondent's failure to provide proper nutrition for her children, her failure to benefit from services, and her failure to maintain suitable housing. Although respondent had obtained clean and appropriate housing at the time of the termination hearing, other evidence on the record supports the trial court's finding that she had not made any meaningful change in the conditions that led to adjudication. Respondent's housing remained unstable; respondent moved six times during the pendency of the case and, at the time of trial, she lived in temporary housing with no lease. And, despite receiving services since 2004, respondent failed to make any meaningful improvement in her parenting skills; she remained unable to provide the children with nutritious food and had difficulty providing attention to all the children during visits. Because clear and convincing evidence supports termination under MCL 712A.19b(3)(c)(i), we need not consider whether clear and convincing evidence supported termination under MCL 712A.19b(3)(c)(ii), (g), and (j). The trial court did not err by finding that clear and convincing evidence supported termination under MCL 712A.19b(c)(i).

III. BEST INTERESTS

Finally, respondent argues that the trial court erred by finding that termination of her parental rights was in the children's best interests. See MCL 712A.19b(5). Again, we disagree. Respondent received services intermittently from 2004 to January 2009, when the children were removed, and during the pendency of this case. Respondent failed to benefit from these services. Moreover, respondent missed half of the allowed parenting time in the eight months preceding the termination hearing, although she knew visitation was important and that her inconsistency had a negative impact on the children. Although respondent loves her children, her actions show that she cannot provide them with the emotional stability, safe housing, and permanency that they deserve. The trial court did not clearly err in its best interests determination. Termination of respondent's parental rights was proper.

Affirmed.

/s/ Michael J. Kelly
/s/ Kirsten Frank Kelly
/s/ Stephen L. Borrello