STATE OF MICHIGAN

COURT OF APPEALS

In re CONDON/GORAJ/LAFRANCE, Minors.

UNPUBLISHED
February 9, 2016

No. 326097
Wayne Circuit Court
Family Division
LC No. 12-509596-NA

Before: CAVANAGH, P.J., and RIORDAN and GADOLA, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to the four minor children, ALMC, JJG, DJL, and DPAL, pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (j). We affirm.

On appeal, respondent challenges the reasonableness of the services provided by petitioner, the evidence supporting the statutory grounds for termination, and the circuit court's best interest determination. We first address petitioner's complaint challenging the reasonableness of her services. According to respondent, petitioner ignored its responsibility to provide reasonable services to address her inability to find employment and housing, and to address her transportation difficulties. Respondent did not timely challenge as unreasonable in the circuit court the nature of the services that petitioner provided. See *In re Terry*, 240 Mich App 14, 26-27; 610 NW2d 563 (2000). We review unpreserved issues only to ascertain whether any plain error affected the appellant's substantial rights. *In re Williams*, 286 Mich App 253, 274; 779 NW2d 286 (2009).

"Generally, when a child is removed from the parents' custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan." *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009), citing MCL 712A.18f. Contrary to respondent's contention on appeal that petitioner ignored her repeated requests to inspect her residence, her caseworker, Ann Lenceski, testified that respondent had not been home at the time of a scheduled inspection. Lenceski also denied that any tension existed between her and respondent which interfered in any respect with the many services petitioner offered to her. Contrary to respondent's argument that Lenceski was disciplined for insulting her during a telephone call, Lenceski denied ever insulting respondent or receiving any discipline from her supervisor, and respondent denied possessing or knowing of any substantiation of improper conduct by Lenceski. And contrary to respondent's contention that petitioner neglected to provide her the individual bereavement or grief counseling identified in her

psychological evaluation, the record established that petitioner referred her for individual counseling, and respondent's counselor knew or should have known about the grief counseling recommendation. Although the circuit court did not expressly credit Lenceski's testimony regarding her reasonable efforts at assisting respondent, the court implicitly credited Lenceski, discredited respondent's contrary testimony, and we will not revisit the credibility determination. See *In re HRC*, 286 Mich App at 459.

In summary, contrary to respondent's contention that petitioner failed to make reasonable efforts to reunify her with the children, the evidence established clearly and convincingly that respondent did not follow up on most of the services that petitioner supplied. See *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). Accordingly, respondent's challenge is without merit.

Next, respondent argues that there was insufficient evidence to terminate her parental rights because she was working toward compliance with her treatment plan and had shown that she benefited from various services. We disagree.

To terminate parental rights, the trial court must find at least one of the statutory grounds for termination listed in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review "for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination." *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A decision is clearly erroneous if, although supported by evidence, this Court is left with a definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). "We give deference to the trial court's special opportunity to judge the credibility of the witnesses." *In re HRC*, 286 Mich App at 459.

In this case, the circuit court did not err in concluding that clear and convincing evidence supported termination of respondent's parental rights under MCL 712A.19b(3)(c)(*i*), which is permitted if at least 182 days elapsed since an initial dispositional order and it was established by clear and convincing evidence that the "conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." Approximately 25 months had elapsed between the circuit court's termination order and its initial dispositional order regarding respondent. At a pretrial hearing in September 2012, respondent admitted to having an extensive history with Children's Protective Services (CPS), which included allegations of physical abuse, medical neglect, and physical neglect. She also admitted that: she missed several medical appointments after DJL's diagnosis with failure-to-thrive syndrome; DPAL tested positive for marijuana at birth; petitioner offered her services on multiple occasions; she had previously participated in random drug screens; and she completed "counseling to address parenting skills, child safety, and decision making." The circuit court ordered respondent to complete parenting classes, a "substance abuse assessment and therapy, random drug screens, individual therapy, domestic violence therapy, psychiatric and psychological evaluations, visit with [the] children, have suitable income and housing, [and] remain in contact with [her case]worker."

Abundant evidence established that the conditions leading to this adjudication continued to exist in December 2014, with no reasonable likelihood of rectification within a reasonable

time. Lenceski testified that respondent completed parenting classes, but did not benefit from them. She noted that respondent never supplied the "children with a safe[,] suitable home[]," only infrequently attended her parenting times with the children,[1] and never had unsupervised parenting times with the children. DJL sometimes seemed pleased to see respondent, but JJG and DPAL often seemed anxious and ready to leave the parenting times. Respondent began attending individual and substance abuse counseling but, in February 2014, the counselor terminated the therapy because respondent failed to participate. Although respondent completed domestic violence counseling, Lenceski opined that she had not benefitted from the counseling in light of her resumption of a relationship with JJG's father, with whom respondent had a history of domestic violence. Respondent submitted only 14 out of 122 random weekly drug screens. Respondent never substantiated regular employment and had no residence of her own.

A decision regarding a reasonable time for improvement "appropriately focuse[s] not only on how long it would take respondent to improve her parenting skills, but also on how long her . . . children could wait for this improvement." *In re Dahms*, 187 Mich App 644, 648; 468 NW2d 315 (1991). The young children had languished for more than two years as temporary court wards, and urgently needed permanency and stability. Respondent made minimal progress toward addressing her prolonged history of substance abuse, which she agreed adversely affected her capacity to parent the children. Respondent also made minimal to no progress toward attaining the other goals of her treatment plan. In light of the record evidence, the trial court did not clearly err when it concluded that clear and convincing evidence supported termination of respondent's parental rights under MCL 712A.19b(3)(c)(*i*). The conditions leading to adjudication continued to exist with no reasonable likelihood that they would be remedied within a reasonable time considering the children's ages. Because only one statutory ground must be established by clear and convincing evidence, *In re HRC*, 286 Mich App at 461, we need not address whether the trial court clearly erred in finding that MCL 712A.19b(3)(g) and (j) were established; nevertheless, we conclude that the trial court did not clearly err in that regard.

Respondent also argues that the trial court erred when it concluded that termination was in the children's best interests. After review for clear error, we disagree. See *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

A trial court must order termination of parental rights if a statutory ground for termination is established by clear and convincing evidence and the trial court finds by a preponderance of the evidence that termination is in the child's best interests. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). In making that determination, the court may consider a variety of factors, such as: the parent's history, parenting ability, and compliance with her case service plan, including participation in a treatment program; the child's age and bond to the parent; the child's safety and well-being; the foster care environment; and the child's need for

[1] Lenceski estimated that since June 2013, respondent had attended 25 out of 50 scheduled parenting times with ALMC and JJG. Although respondent had the opportunity to attend supervised parenting times with DJL and DPAL three times a week, since DJL's father went to prison in October 2013, respondent attended only once.

permanency, stability, and finality. *In re White*, 303 Mich App at 713, quoting *In re Olive/Metts*, 297 Mich App at 41-42; *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011).

Here, although respondent and ALMC shared a bond, the three youngest children did not exhibit strong bonds with respondent. Lenceski observed that JJG and DPAL usually seemed anxious and ready to leave the parenting times. JJG's foster mother testified that JJG and respondent did not share a bond, he usually resisted attending parenting times, and he spent most of the parenting times interacting with his siblings instead of respondent. Although DJL and DPAL recognized respondent when they saw her, they never asked "about her during the week."

After prior CPS interventions in 2011 and 2012, and during the more than two years that the children spent in foster care, respondent minimally improved her parenting skills, did not address her long-term substance abuse issues, sporadically attended supervised parenting times, and exhibited no comprehension of domestic violence after completing counseling. The children had pronounced needs for finality, permanency, and stability. All four children had begun developing normally during their foster care placements, and the children's current relative placements testified that they intended to adopt the children. And the circuit court need not have addressed any differences in the children's best interests because none of the individual children's best interests significantly differed from the other children's situations. See *In re White*, 303 Mich App at 715-716. In summary, the circuit court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Michael J. Riordan
/s/ Michael F. Gadola