STATE OF MICHIGAN

COURT OF APPEALS

In re G. A. EDWARDS-GAFFORD, Minor.

UNPUBLISHED
January 12, 2016

No. 327207
Wayne Circuit Court
Family Division
LC No. 12-510790-NA

Before: SAAD, P.J., and WILDER and MURRAY, JJ.

PER CURIAM.

Respondent L. Gafford appeals as of right the trial court's order terminating her parental rights to her youngest child pursuant to MCL 712A.19b(3)(c)(*i*) and (g). We affirm.

The minor child, GA, is the youngest of respondent's four children, all of whom were removed from respondent's home in December 2012, after respondent refused to provide prescribed medication to treat another child's epilepsy condition. In a prior appeal, this Court affirmed the trial court's July 19, 2013 order of adjudication exercising jurisdiction over the four children, and its August 22, 2013 dispositional order allowing the children's placement outside of respondent's home. *In re Alejandro/Edwards-Gafford/Becker/Mesa-Rodriguez*, unpublished opinion per curiam of the Court of Appeals, issued May 22, 2014 (Docket Nos. 317740 and 318250).

At the time of the dispositional hearing, respondent was residing at a substance-abuse rehabilitative facility. She had previously been ordered to provide random drug screens, and the dispositional order required her to obtain and maintain suitable housing, obtain a legal source of income, and participate in other services, including individual therapy. Two of respondent's other children were ultimately placed in the custody of their respective fathers. The trial court found that statutory grounds for terminating respondent's parental rights to GA and her oldest child existed because of respondent's continued substance abuse and failure to obtain suitable housing and a legal income, but declined to terminate respondent's parental rights to the oldest child because termination was not in his best interests considering his age and lack of interest in receiving services.

Although respondent argues on appeal that termination of her parental rights to GA was improper because the Department of Health and Human Services (DHHS) failed to make reasonable efforts to accommodate her needs in formulating a treatment plan, she substantively argues that the ground for termination in MCL 712A.19b(3)(c)(*ii*) was not met because she was not given a reasonable opportunity to rectify conditions so that GA could be returned to her care.

We review the trial court's factual findings for clear error, giving deference to the trial court's special opportunity to judge the weight of evidence and the credibility of the witnesses appearing before it. *In re JK*, 468 Mich 202, 209-10; 661 NW2d 216 (2003). The reasonableness of services offered to a respondent has a bearing on the sufficiency of the evidence offered in support of a statutory ground for termination. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

In a child protection proceeding, the DHHS must generally make reasonable efforts to reunify a child with her family. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010), citing MCL 712A.19a(2). Services may be provided during the adjudicative phase through completion of an initial service plan for a child who has been removed from the parent's home. See MCL 712A.13a(10)(a); *In re COH*, 495 Mich 184, 192; 848 NW2d 107 (2014). The initial service plan must detail the efforts to be made and services to be offered to facilitate the child's return to the home or other permanent placement. *In re Rood*, 483 Mich 73, 96-97; 763 NW2d 587 (2009) (opinion by CORRIGAN, J.). At this stage, the respondent's participation is voluntary, unless otherwise ordered by the trial court. MCL 712A.13a(10)(c); MCR 3.965(D)(2).

If the court acquires jurisdiction over the child, the case proceeds to disposition to determine what action, if any, to take on behalf of the child. *In re COH*, 495 Mich at 192. The court may not enter an order of disposition unless the DHHS prepares a case service plan of services to be provided to a parent to facilitate the child's return. *In re Sanders*, 495 Mich 394, 407; 852 NW2d 524 (2014), citing MCL 712A.18f(3)(d). While the DHHS must generally make reasonable efforts to rectify the conditions that caused the child's removal through the case service plan, *In re Mason*, 486 Mich at 152; *In re Fried*, 266 Mich App at 542, the respondent has a commensurate responsibility to participate in the services offered to secure reunification, *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). The time for a respondent to object to the adequacy of services is when those services are provided or adopted. *Id.* at 247.

Respondent has limited her argument regarding the adequacy of services to their effect on the statutory grounds for termination. Contrary to respondent's argument, however, the trial court did not rely on § 19b(3)(c)(*ii*) as a statutory ground for termination. Rather, the trial court relied solely on § 19b(3)(c)(*i*) and § 19b(3)(g) as grounds for terminating respondent's parental rights. Nonetheless, it is clear from the trial court's order that it found that reasonable efforts were made to preserve the family and facilitate reunification.

The record does not support respondent's claim that the caseworker "taunted" her with photographs of her eviction from housing. Respondent's own testimony at the termination hearing indicated that the eviction occurred in June 2013, before the adjudication. In addition, the trial court struck respondent's limited testimony referring to the caseworker's conduct after the eviction.[1]

[1] We note that from the limited testimony presented, respondent's interpretation of the caseworker's conduct as involving "taunting" is strained. Rather, it appears that the caseworker only sought to inform respondent of the situation at her home.

And to the extent that respondent's argument regarding petitioner's efforts is based on the conflicting testimony at the termination hearing regarding whether the caseworker used obscenities at a team meeting in November 2014, respondent has failed to demonstrate that the caseworker's remarks, even if they occurred, establishes that petitioner's reunification efforts throughout the proceeding were unreasonable.

Respondent has also failed to support her argument that the caseworker failed to make reasonable efforts to assist her in complying with the drug screening requirement of her treatment plan. Regardless of whether respondent missed drug screens during the adjudicative and dispositional phases of this case, or the reasons why she missed those screens, the evidence, including respondent's own admissions, supports the trial court's finding that respondent continued to used marijuana after the supplemental petition was filed.

In addition, petitioner was only required to prove one statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3); *In re JK,* 468 Mich at 210; *In re Fried,* 266 Mich App at 540-541. Considering the evidence regarding respondent's lack of suitable housing, her inability to maintain employment, and her ongoing marijuana use, the trial court did not clearly err in finding that § 19b(3)(g) was established. See *In re JK*, 468 Mich at 214 (a parent's failure to comply with a treatment plan is evidence of the parent's failure to provide proper care and custody for a child); see also *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). Therefore, it is unnecessary to consider the trial court's reliance on § 19b(3)(c)(*i*) as an additional ground for termination, or respondent's apparent position that her substance abuse and failure to maintain suitable housing and employment were conditions that should have been evaluated under § 19b(3)(c)(*ii*), not § 19b(3)(c)(*i*). In sum, respondent has not established any basis for appellate relief from the order terminating her parental rights.

Affirmed.

/s/ Henry William Saad
/s/ Kurtis T. Wilder
/s/ Christopher M. Murray