STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
March 13, 2012

In the Matter of J. E. MICHAEL, Minor.

No. 304152
Macomb Circuit Court
Family Division
LC No. 2009-000192-NA

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

PER CURIAM.

Respondent L. Michael appeals the trial court's order terminating her parental rights to her daughter pursuant to MCL 712A.19b(3)(c)(*i*), (g), (j), and (l). For the reasons set forth below, we affirm.

In July 2008, while respondent and her husband G. Michael ("Michael"), who is the child's father, were both living in Nevada, respondent allowed Michael to take the child to visit relatives for two weeks. Michael did not return to Nevada and kept the child in Michigan. Although respondent filed a police complaint in Nevada for parental kidnapping, and later filed a divorce action against Michael, there is no indication that the police complaint was ever prosecuted or that respondent made any further efforts to seek custody of the child.

In March 2009, petitioner initiated a child protective proceeding in Michigan because Michael was unable to properly care for the child due to mental health issues. Because respondent's parental rights to another child were previously involuntarily terminated in California in 1997, petitioner requested termination of respondent's parental rights at the initial dispositional hearing. However, after the trial court assumed jurisdiction over the child, petitioner agreed to dismiss its request for termination at the initial dispositional hearing and agreed to provide respondent and Michael with a parent-agency agreement to allow them to participate in reunification services. Because respondent intended to remain in Nevada, she was advised that she could participate in services there, but would be required to do so at her own expense. Respondent expressly agreed to that arrangement. Through an interstate compact request, respondent was thereafter provided with referrals for individual therapy and a psychological evaluation in Nevada, but Nevada caseworkers refused to perform a home study of respondent's apartment because reunification was never imminent due to respondent's lack of progress in meeting the requirements of her parent-agency agreement.

After the child had been under the court's jurisdiction for almost two years, the trial court terminated both respondent's and Michael's parental rights because neither had made substantial progress in complying with the requirements of their parent-agency agreements.[1]

I. REASONABLE EFFORTS TO REUNITE THE CHILD WITH RESPONDENT

Respondent argues that the court erred when it terminated her parental rights because petitioner failed to make reasonable efforts to reunite her with her daughter.

This Court reviews the trial court's factual findings for clear error. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *Id.* Deference must be accorded to the trial court's assessment of the credibility of witnesses who appear before it. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

Generally, petitioner is required to make reasonable efforts to rectify the conditions that caused a child's removal from a parent's home through the adoption of a service plan. MCL 712A.18f. See also MCL 712A.19(7), MCL 712A.19b(5), and *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). A parent's rights to her child should not be terminated if the petitioner was required to make reasonable efforts to reunite the family, but did not provide the services necessary to return the child home. *In re Mason*, 486 Mich at 158-159.

In *In re Rood*, 483 Mich 73, 121-122; 763 NW2d 587 (2009), the Court explained that

> [r]eunification efforts may be initially directed at a custodial parent when appropriate, consistent with the statutory preferences for a child's "own home." But if these efforts are unfruitful, the state must also make reasonable efforts to reunify the child with the noncustodial parent. Accordingly, unless the noncustodial parent is statutorily disqualified from becoming his child's custodian, the state must notify the noncustodial parent of his right to be evaluated as a potential placement and of his statutory right to receive services if appropriate. [Footnote omitted.]

Thus, all parents must be included in the development of a service plan. *Id.* at 121-122 n 63.

Here, however, because respondent's parental rights to another child were previously involuntarily terminated, petitioner was not obligated to offer her a parent-agency agreement to work toward reunification. See MCL 712A.19a(2)(c) and *In re Mason*, 486 Mich at 152. Nonetheless, petitioner agreed to do so, and also agreed to allow respondent to participate in services in Nevada, but explained that she would be responsible for the cost of any out-of-state services. As noted, respondent specifically acknowledged her understanding of this arrangement and agreed to participate in services in Nevada at her own expense.

[1] Respondent G. Michael has not appealed the order terminating his parental rights.

Though respondent now argues that she lacked the ability to pay for services, she was provided with referrals for services that she could obtain in Nevada on a sliding scale based on her income. Further, the record does not support respondent's argument that her failure to visit the child in Michigan was attributable to petitioner's refusal to pay for the cost of transportation. Evidence was presented that respondent could have requested petitioner to provide her with a bus ticket to Michigan, but she did not do so. Evidence was also presented that Michael sent respondent money for air fare to Michigan and also sent her an open bus ticket, but she never took advantage of those opportunities to visit the child. Instead, she attributed her inability to travel to Michigan to her employment. Respondent also complains that Nevada caseworkers refused to perform a home study on her apartment. However, again, because of respondent's minimal progress with her treatment plan, the case never progressed to the point at which reunification was imminent such that a home study was required.

We also find no merit to respondent's argument that reasonable efforts required the court to transfer the case and return the child to Nevada pursuant to the Interstate Compact on the Placement of Children, MCL 3.711 *et seq.* The act does not apply when a child is returned by the sending state to a natural parent residing in another state. MCL 3.711, Article VIII. Further, it would have been inappropriate to transfer the case to Nevada when petitioner was also working to reunify the child with her father, who was residing in Michigan.

In sum, the record reflects that petitioner made reasonable efforts to reunify respondent with her child. Although petitioner was not obligated to provide services in light of the previous termination of respondent's parental rights to another child, it agreed to do so and provided respondent with a parent-agency agreement. Respondent expressly agreed to participate in services in Nevada at her own expense instead of traveling to Michigan where she could have participated in services at state expense. Further, petitioner provided respondent with referrals to obtain services in Nevada on a sliding fee schedule. Respondent was afforded approximately 18 months to comply with the requirements of her treatment plan. The trial court did not clearly err in finding that reasonable efforts were made to reunify respondent with her child.

II. STATUTORY GROUNDS FOR TERMINATION

Respondent avers that the trial court erred in finding that petitioner established the statutory grounds for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). We disagree.

Although respondent argues that the evidence did not support termination of her parental rights under §§ 19b(3)(c)(*i*), (g), and (j), she ignores that the trial court also found that termination was justified under § 19b(3)(l). Termination need only be supported by a single statutory ground. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). The evidence that respondent's parental rights to another child were previously involuntarily terminated in 1997 supports the trial court's determination that termination was warranted under § 19b(3)(l). Regardless, in light of the evidence that respondent made only minimal progress in meeting the requirements of her parent-agency agreement, failed to participate in individual therapy, failed to obtain a psychological evaluation that addressed her parenting skills, and did not personally visit the child during the entire period the child remained in foster care, the trial court did not clearly

err in finding that §§ 19b(3)(c)(*i*), (g), and (j) were also established by clear and convincing evidence. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

III. JURISDICTION UNDER THE UCCJEA

Respondent further argues that the trial court improperly assumed jurisdiction in this case under the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), MCL 722.1201 *et seq.*, because a divorce action had been filed in Nevada before this child protective proceeding was initiated. We find no merit to this argument. Though respondent apparently had filed a divorce action in Nevada in July 2008, the trial court had jurisdiction to proceed in this matter under MCL 722.1204. Further, there is no indication that respondent ever contested the trial court's jurisdiction to act, produced an order from a Nevada court regarding the child, or requested that jurisdiction be transferred to Nevada. See MCL 722.1204(2), (3), and (4). And, because there is no indication that respondent advised the trial court of a child-custody determination while this matter was pending, no duty to contact the Nevada courts was triggered under MCL 722.1204(4). Accordingly, we reject respondent's argument that the trial court lacked jurisdiction under the UCCJEA.

Affirmed.

/s/ Henry William Saad
/s/ Kirsten Frank Kelly
/s/ Michael J. Kelly