

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
April 19, 2012

In the Matter of G. G. WILLIAMS, Minor.

No. 306471
Kent Circuit Court
Family Division
LC No. 09-052773-NA

Before: M. J. KELLY, P.J., and FITZGERALD and DONOFRIO, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). Because we conclude that there were no errors warranting relief, we affirm.

To terminate parental rights, the trial court must find that at least one of the grounds set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). The court must also find that termination is in the child's best interests. MCL 712A.19b(5). We review for clear error a trial court's factual findings, including whether petitioner made reasonable efforts to reunify the family and whether a statutory ground for termination of parental rights was proved by clear and convincing evidence, as well as the court's best interests determination. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

In this case, the trial court found that the petitioner had established the grounds stated under MCL 712A.19b(3)(c)(i), and (g). Under MCL 712A.19b(3)(c)(i) the trial court may terminate a parent's parental rights where 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." Similarly, under MCL 712A.19b(3)(g), the trial court may terminate the parent's parental rights where the "parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age."

The trial court did not clearly err when it determined that the petitioner had established the ground stated under MCL 712A.19b(3)(c)(i) by clear and convincing evidence. The conditions that led to the adjudication were substance abuse and improper housing. The child was removed from the care of her mother and respondent after police conducted a drug raid on their home. Respondent was charged with delivery and manufacture of drugs and maintaining a

drug house, for which he was convicted and sentenced to prison several months later. Before his incarceration, respondent established suitable housing, although he had insufficient income to pay for the housing on his own. He also participated in substance abuse treatment programs, but continued to test positive for cocaine. At the time of the termination hearing, respondent was incarcerated and was not scheduled to be released for another seven months. The record does not establish that he had a plan for suitable housing. It was also uncertain whether respondent would be able to remain drug-free outside the prison environment. Petitioner required that before the child could be placed in his care, respondent establish suitable housing and at least six months of sobriety. Thus, at a minimum, it would be 13 additional months before the child could be in respondent's care, which was not a reasonable amount of time.

There was also clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(g). "[A] parent's failure to comply with the parent-agency agreement is evidence of a parent's failure to provide proper care and custody for the child." *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Respondent did not consistently participate in or show benefit from the services offered to him before his incarceration, particularly in regard to substance abuse recovery. Admittedly, once respondent became incarcerated, he could not participate in many services or have the child visit him. But, as noted, it was not reasonably likely that respondent would be able to provide the child with a suitable, drug-free home within a reasonable amount of time even after his release from prison.

Respondent argues on appeal that petitioner failed to make reasonable efforts to reunite him with the child. See *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). Where reasonable efforts toward reunification are required, but the petitioner fails to provide services necessary for the child's safe return home, termination of parental rights is improper. *In re Mason*, 486 Mich 142, 158-159; 782 NW2d 747 (2010). Under the circumstances of this case, petitioner made reasonable efforts at reunification. Petitioner prepared a service plan and after his incarceration, contacted respondent and various prison officials about the services available to him and what services he was participating in. Petitioner also inquired about the procedure for a child to visit an imprisoned parent. While the trial court ultimately decided not to allow visitation, petitioner helped to facilitate communication between respondent and the child. Furthermore, respondent's reliance on *In re Mason* is misplaced. Unlike the father in *In re Mason*, respondent was not denied the opportunity to participate in a case service plan. See *id.* at 159-160. Furthermore, in this case, incarceration was but one factor in the trial court's termination ruling and the court did not fail to consider relative placement. See *id.* at 163-164.

Finally, the trial court did not err in its best interests determination. While respondent loves his child, the length of time she might have been required to wait for him to be able to provide proper care and custody was unreasonably long. Given the child's young age, the amount of time she had already spent out of respondent's care with various caregivers, and her need for a stable home environment, it was in her best interests to terminate respondent's parental rights. MCL 712A.19b(5).

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Kelly
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio