STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
October 11, 2012

In the Matter of I. WOODCUM, Minor.

No. 308896
Oakland Circuit Court
Family Division
LC No. 2009-764168-NA

Before: MURRAY, P.J., AND CAVANAGH AND STEPHENS, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(*i*) and (g). We affirm.

Respondent argues that the court erred reversibly in finding grounds to terminate his parental rights where he completed parenting classes, had negative drug screens, and maintained employment and proper housing. Termination of parental rights is appropriate where one or more statutory grounds for termination are proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re B & J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). This Court reviews the lower court's findings under a clearly erroneous standard. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

In the present case, respondent did not substantially comply with or benefit from his court-approved parent agency agreement (PAA). The PAA required individual counseling, parenting classes, visitations, suitable housing and income, drug screens, substance abuse assessment, and treatment if recommended. Respondent did not participate in services or parenting time for the last nine months the case was pending. He had a screen positive for adulterants in April 2010. After this, he did begin parenting time as soon as the court permitted. He also had psychological and substance abuse evaluations, turned in regular drug screens, and completed sufficient parenting classes to satisfy DHS and the court. His substance abuse evaluation did not require treatment, and he had employment and suitable housing. The individual counseling was apparently tied to the substance abuse evaluation and was not required. Eventually, respondent earned the right to unsupervised and then overnight visits with the child.

However, in early 2011, respondent's participation began to fall off. As of May 2011, only three consecutive negative screens were required to return the child, yet respondent did not comply. He also was not visiting the child or staying in contact with DHS or his father, with

whom the child lived. The court decided to require Families First, which was available immediately, to assist in transitioning the child home. Although this service was explained to respondent and his wife, and respondent had no objection at first, he and his wife later refused to allow Families First in their home. Respondent last saw the child in late June or early July 2011. He did not attend the statutory basis hearing in December 2011. Caseworkers had made repeated attempts to communicate with him, but he would not answer letters or return calls. The court found that respondent's testimony to the contrary was not credible, and the caseworkers' testimony was credible. This Court accords the referee's credibility determinations great weight, in light of the referee's special opportunity to observe the witnesses. *Mason*, 486 Mich at 152; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *B & J*, 279 Mich App at 17-18.

On appeal, respondent incorrectly argues that DHS required him to make *all* of the efforts to reunify with his child. Certainly respondent was required to make some efforts, but this is what parenting entails. DHS and the court gave him much assistance and many opportunities to do what was necessary to have the child returned.

We further find that the trial court did not clearly err in finding clear and convincing evidence to satisfy the statutory grounds in MCL 712A.19b(3)(c)(*i*) and (g). A parent must benefit from services in order to be able to provide a safe, adequate home. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005), superseded on other grounds by MCL 712A.19b(5). In the case at bar, respondent did not benefit sufficiently, since he stopped visiting the child. He also went long periods without a drug screen. While respondent's PACE evaluation did not require drug treatment, the court and DHS began to suspect drug use when respondent failed to comply with the minimal requirement of two screens a month. Missed screens were considered positive, and this was explained to respondent. Further, the court was sympathetic to respondent's financial needs and heavy work schedule in roofing season. The court and DHS suggested various alternatives, such as switching JAMS locations, requiring fewer screens, or screening on respondent's lunch hour. But respondent still did not comply or offer a valid reason why he could not screen. He had a history of very heavy drug use, and screens were an important part of assuring that he was ready to parent a small child.

Respondent's failure to visit the child was another serious issue. His excuse of thinking that visits could not occur without screens was contrary to the referee's statements at hearings and clear provisions in court orders. DHS was telling respondent (or trying to tell him, since he did not respond to calls or letters) what he needed to do. DHS was also communicating with respondent's wife and father, who was the child's caretaker. Respondent may have had some difficulties communicating with his father, as did DHS and the lawyer-guardian ad litem, but respondent still had the right to parenting time, and had only to enlist the aid of caseworkers or his attorney to schedule visits. His failure to visit went on for many, many months, while his father's period of moving and being difficult to reach lasted only a few weeks to a month. The obvious conclusion is that seeing the child was not a top priority for respondent.

We also find no clear error in the court's finding that termination was in the child's best interests. MCL 712A.19b(5); MCR 3.977(H)(3); *Trejo*, 462 Mich at 356-357; *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009). Respondent's lack of contact must have hurt the child, who stopped asking about respondent after a time. Previously, she would run up to respondent at visitations and cry when he had to leave. In early 2011, respondent was visiting

two to three days a week unsupervised and then had overnight parenting time at least twice a week. His wife and her children were also bonded to respondent's daughter. But then all contact from respondent stopped. He did not visit or even call for the child's birthday, Thanksgiving, or Christmas. Birthday presents respondent allegedly wrapped and kept under his bed did not find their way to the child. While respondent undoubtedly loved his child and professed to miss her and to know that she must be missing him, these feelings did not translate into action. The child had already lost her grandmother and had her mother's rights terminated, and now she had lost contact with her father and new stepfamily. The court found that respondent's bond with the child had been broken, and the evidence supported this view. Granting more time would have been very unlikely to alter respondent's course of neglecting the child. We find no clear error in the court's best-interest ruling.

Affirmed.

/s/ Christopher M. Murray
/s/ Mark J. Cavanagh
/s/ Cynthia Diane Stephens