

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 27, 2012

In the Matter of LOOPER, Minors.

No. 309465
Kent Circuit Court
Family Division
LC No. 10-050665-NA

Before: SERVITTO, P.J., and MARKEY and MURRAY, JJ.

PER CURIAM.

Respondent mother appeals by right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination, MCL 712A.19b(3)(c)(i) and (g), were established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children were initially removed from respondent's care because respondent was arrested after a traffic stop in Mississippi when the police found ten pounds of marijuana in her car. Following adjudication, respondent attended services and had mostly negative drug screens. She appeared to be making progress. But after receiving services for approximately 1-1/2 years, respondent stopped attending services, counseling, and her drug screens and she missed some parenting time. She was arrested, and while incarcerated, was charged with possession of contraband because she had marijuana. On this record, although the mother had engaged in services and appeared to make progress, she did not maintain any benefit from the services or internalize changes. The youngest child was in care almost his entire life, and, according to their therapists, the children no longer identified respondent as their parent. Further, this record established there was no reasonable likelihood that the conditions of respondent's criminality or involvement with drugs would be rectified within a reasonable time considering the ages of the children. The trial court did not clearly err when it terminated respondent's parental rights on this basis. Based on these same facts, the trial court did not clearly err when it determined respondent failed to provide proper care and custody for the children, and there was no reasonable expectation that she would in a reasonable time considering the children's ages.

Respondent also argues that her rights were terminated only because she was incarcerated, which is not by itself a basis for termination. *In re Mason*, 486 Mich 142, 160; 782 NW2d 747 (2010). But the record does not reflect that respondent's rights were terminated solely because she was incarcerated. The court also considered respondent's extensive

involvement in services but her failure to benefit from them, her ultimate return to drug use and criminality, along with the length of time the children were in care and the fact that respondent would not be able to rectify the conditions leading to adjudication in a reasonable time, if at all.

Finally, respondent also argues that termination was premature because placement with appropriate relatives was not considered. “Michigan traditionally permits a parent to achieve proper care and custody through placement with a relative.” *Mason*, 486 Mich at 161 n 11. In this case, respondent failed to properly place her children while incarcerated because they were already wards of the court in foster care. Respondent eventually provided a list of 25 to 27 names for possible placements. Her suggestions were investigated, but no relative was available as a guardian where all three children could be placed together.

We affirm.

/s/ Deborah A. Servitto

/s/ Jane E. Markey

/s/ Christopher M. Murray