STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of A. GROH, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

C. M. CROSS,

Respondent-Appellant,

and

R. A. GROH,

Respondent.

UNPUBLISHED
July 27, 2010

No. 295374
Calhoun Circuit Court
Family Division
LC No. 2007-001968-NA

Before: FORT HOOD, P.J., and BORRELLO and STEPHENS, JJ.

PER CURIAM.

Respondent mother appeals as of right from the court order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(*i*) and (g). For the reasons set forth in this opinion, we affirm.

Respondent was 14 years old when she gave birth to the minor child. She admitted to smoking marijuana and abusing alcohol while pregnant. She also acknowledged abusing drugs for most of her adolescence, engaging in prostitution (initially under coercion by her mother and later on her own accord), caring for the minor child while under the influence of drugs, and exposing the child to her drug use and sexual activity as well as to individuals who were not appropriate. Throughout most of this protective proceeding concerning the minor child, there was a simultaneous but separate protective proceeding concerning respondent, who was a minor until late 2008.

Respondent argues that the trial court clearly erred when it found that the agency made reasonable efforts to reunify respondent with the minor child. The trial court's decision to terminate parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). In general, when a child is removed from the custody of the parents, the agency is required to make reasonable efforts to rectify the conditions that caused the

child's removal by adopting a service plan that is updated at 90-day intervals throughout the protective proceeding. MCL 712A.18f(1)-(5); *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). To successfully claim a lack of reasonable efforts, a respondent must establish that he would have fared better if the agency offered other services. *Fried*, 266 Mich App at 543. In this case, respondent fails to specify any service that was lacking in her treatment plan and, instead, argues that the services provided to her were obviously inadequate to address her level of need and that the agency should have offered more services because she was a minor and under the court's jurisdiction herself throughout much of this protective proceeding.

Although it is true that some respondents require extra assistance,[1] such assistance was not unlimited[2] and, in this case, the assistance provided by the agency to respondent was appropriate and extensive. At the beginning of this case, respondent was using drugs, despite her completion of a drug rehabilitation program. She was ordered to complete another rehabilitation program, after which the agency provided her with services that included counseling, continued substance abuse treatment, random drug screens, parenting assistance, medication to assist with mood stabilization, and foster care services. In addition, the agency accommodated respondent's young age by allowing her to attend school on a full-time basis in lieu of full-time employment, and also allowing her to parent the minor child in the foster home with the plan to eventually transition her into an independent living situation. Despite these many services, respondent was unable to find a long-term solution for her drug problem (she suffered a severe relapse in August of 2009 and used marijuana in October of 2009). Given this evidence, the trial court did not clearly err when it found that the agency provided respondent with adequate services and that the true problem was respondent's inability to derive long-term benefit from those services.

Next, respondent protests the sufficiency of evidence establishing MCL 712A.19b(3)(c)(*i*) and (g). It is correct that the trial court erred when it terminated respondent's parental rights upon MCL 712A.19b(3)(c)(*i*) since there was a lack of adjudication specifically relating to respondent[3] and, therefore, no adjudicating conditions that involved misconduct committed by respondent. However, such error was harmless because the trial court properly based termination of respondent's parental rights on another statutory ground. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

[1] See *In re Newman*, 189 Mich App 61, 66-68, 70; 472 NW2d 38 (1991) (in order to provide the parents [one of whom had limited intellectual capacity] a full and fair opportunity to rectify the adjudicating condition of unsanitary conditions in the home, they needed consistent hands-on instruction on how to maintain a home).

[2] See *In re Terry*, 240 Mich App 14, 26-28; 610 NW2d 563 (2000) (the agency is required to make reasonable accommodations for the parents' limitations or disabilities but, if the parents are unable or unwilling to meet "irreducible minimum parental responsibilities," then the child's needs prevail over the parents' needs).

[3] The court assumed full jurisdiction over the minor child based on pleas of admission made by his father and great-grandmother/legal guardian. Because jurisdiction attaches to the child, it was not necessary to hold a separate adjudicative trial for respondent. *In re CR*, 250 Mich App 185, 202-205; 646 NW2d 506 (2002).

Respondent asserts that the trial court clearly erred when it terminated her rights pursuant to MCL 712A.19b(3)(g). Specifically, respondent states that, when the trial court evaluated whether respondent would be able to provide proper care and custody within "a reasonable time" considering the child's age, it should have considered the fact that she was a minor herself when this case started.

There is no special consideration for minors in the application of MCL 712A.19b(3)(g).[4] However, the statutory language of MCL 712A.19b(3)(g) allows a court to consider a number of factors when evaluating what constitutes "a reasonable time" and, conceivably, there could be cases where the parent's age or maturity was relevant to this evaluation. In this case, even assuming respondent's age was relevant, the main factor was respondent's ongoing drug addiction, which caused her to improperly supervise the minor child and also drove her to prostitution for drugs or money. When this proceeding began, respondent was using drugs despite her previous completion of a drug rehabilitation program. Next, she completed a second stint at that rehabilitation center but suffered another relapse in April of 2008. She subsequently made progress in her treatment plan for about one year until August of 2009, when she had a third relapse that was so severe that it effectively eliminated any progress made by respondent up to that point (this relapse included disappearing with the minor child for two days and engaging in prostitution). About a month later, she resumed her participation with services but, in October of 2009, provided a drug screen that indicated recent use of marijuana. In total, this protective proceeding lasted over two years, and the minor child was young, and exhibiting signs of stress caused by the instability in his caretakers. At times, respondent would leave the minor and go on drug induced binges, at other times; she took the child while engaging in acts of drug abuse and prostitution thereby exposing the child to untold dangers. Given this evidence, the trial court did not clearly err when it found that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering the child's age.[5]

Affirmed.

/s/ Karen M. Fort Hood
/s/ Stephen L. Borrello
/s/ Cynthia Diane Stephens

[4] As stated in *Terry*, 240 Mich App at 28, all parents are expected to meet "irreducible minimum parental responsibilities."

[5] See *In re Conley*, 216 Mich App 41, 44; 549 NW2d 353 (1996) (a parent's persistent failure to gain control over a substance abuse problem is a ground for termination of parental rights).