

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 21, 2010

In the Matter of BOOKER, Minors.

No. 297802
Wayne Circuit Court
Family Division
LC No. 07-471771

Before: DONOFRIO, P.J., and CAVANAGH and FITZGERALD, JJ.

PER CURIAM.

Respondent appeals an order terminating her parental rights to the two minor children pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood child will be harmed if returned to parent). Because the evidence was clear and convincing that respondent was unable to provide the minor children with the safety and stability that they needed, and termination of parental rights was in the children's best interests, we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

This Court reviews the trial court's findings of fact in termination proceedings for clear error. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5).

The issues that led to adjudication included respondent's failure to obtain necessary medical care for a burn inflicted on her three-month-old son, for fear of CPS involvement. She was, at the time, already receiving services from CPS because the three-month-old was born with prenatal marijuana exposure and respondent continued to use marijuana. A review of the evidence reveals that respondent received myriad services, numerous referrals and re-referrals, and a lengthy period of time to comply with her treatment plan. The services she received included parenting classes, anger management classes, a substance abuse assessment, substance abuse treatment, individual counseling, and random drug screens. She was also required to obtain and maintain employment and suitable housing.

Immediately after adjudication, the trial court allowed the minor children to live in the care and custody of the maternal grandmother while respondent continued to live in that home. The trial court made it clear to respondent and her mother that respondent was not to take the

minor children from the home by herself. In addition, the trial court made it clear to respondent that if she had positive drug screens, she would not be able to live with the minor children. Within a short period, respondent took the minor children from the home and was involved in an altercation and arrested on assault charges. The minor children were removed from the maternal grandmother's home, and the trial court ordered respondent to remain drug free for three months before unsupervised visits could occur. Over two years, respondent was never allowed to have unsupervised visits with the minor children because of her failure to show the trial court that she could remain drug free. Other than completing parenting classes and the psychological evaluation, respondent was not consistent with any of the services provided to her, and she was unable to show a benefit from the parenting classes or follow through on treatment recommended by the psychological evaluation and required by her treatment plan.

The minor children were in care for 30 months, and respondent attended only two anger management classes. She was not consistent with individual therapy or substance abuse treatment, even when it was provided in her home, and continued to use marijuana when she was pregnant with a third child. Twenty days after giving birth, she tested positive for opiates. She claimed that she was taking Tylenol 3 prescribed by her physician for pain after the birth of the baby but she did not provide proof. She was not consistent with drug screens and tested positive for marijuana and opiates throughout the proceedings. Visitation was not consistent throughout the course of the proceedings. Respondent was arrested twice while the minor children were in the care of the court—once while the minor children were with her.

Respondent argues that she should have been given more time to complete the classes and show the trial court that she could appropriately parent the minor children. A review of the record shows that the trial court gave respondent many chances and, unfortunately, she was unable to follow through with what was required of her. In August 2007, the trial court told respondent it would give her eight more months, which was a year from the date of adjudication, to work on her treatment plan even though the older minor child had been in foster care for a year at that point. A year later, the trial court gave respondent more time to comply with the terms of her treatment plan if she entered into an inpatient substance abuse program. She entered into an inpatient drug program one and a half years after adjudication and over two years after the minor children had been in care. While respondent did complete the inpatient program, she did not comply with outpatient treatment after her release. We conclude that, based on respondent's failure to substantially comply with her treatment plan, despite the myriad services provided to her and the lengthy time given to her to comply, the trial court did not clearly err when it found the evidence clear and convincing to terminate her parental rights pursuant to MCL 712A.19b(3)(c)(i).

With regard to MCL 712A.19b(3)(g) and (j), the evidence presented at trial clearly supports the trial court's finding that respondent had not provided proper care and custody and would not be able to do so within a reasonable time. Respondent continued to use marijuana when she was pregnant with both her second and third child, she was arrested on assault charges after an altercation when the minor children were in her care, and she even left the minor children alone when one child was nine years old and the other child was three months old. Based on respondent's inability to address her substance abuse issues and make decisions that placed the minor children as a priority in her life, even after the minor children had been in the care of the court for 30 months, there was no reasonable expectation that she would be able to

provide proper care and custody within a reasonable time. There was also a reasonable likelihood, based on respondent's conduct, that the minor children would be harmed if returned to her care.

The evidence was clear and convincing that respondent was unable to provide the minor children with the safety and stability that they needed, 30 months after the minor children had been in the care of the court and two years after adjudication. Substance abuse continued to be a problem and anger management had not been adequately addressed. The minor children's need for stability far outweighed any bond respondent may have had with the minor children. Therefore, it was in the minor children's best interests for the trial court to terminate her parental rights.¹

Affirmed.

/s/ Pat M. Donofrio
/s/ Mark J. Cavanagh
/s/ E. Thomas Fitzgerald

¹ Respondent does not raise the issue that the trial court did not address best interests in its opinion. However, the evidence overwhelmingly established that termination was in the minor children's best interests. Any error in this regard is harmless.