

STATE OF MICHIGAN
COURT OF APPEALS

In re BITTERS/LAGE, Minors.

UNPUBLISHED
October 15, 2019

No. 348718
Lapeer Circuit Court
Family Division
LC No. 18-012598-NA

Before: FORT HOOD, P.J., and SAWYER and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals the termination of her parental rights to her minor children, AKB and PJJL, under MCL 712A.19b(3)(c)(i). We affirm.

I. FACTUAL BACKGROUND

According to the initial petition, in September 2017 respondent gave PJJL’s legal father, NL, power of attorney over AKB despite AKB having a different legal father. NL cared for both minor children from September 2017 until his death in February 2018. The minor children were returned to respondent’s care soon after. Respondent and the minor children moved into a housing shelter for a brief period of time until respondent’s drug use resulted in their eviction. Petitioner, the Department of Health and Human Services, filed the initial petition to remove the minors shortly thereafter. Respondent later admitted to the allegations set forth in an amended petition.

After the minor children were taken into the court’s jurisdiction, a parent-agency treatment plan was developed. After one year, respondent failed to complete nearly every aspect of her parent-agency treatment plan, which prompted petitioner to file a supplemental petition to terminate her parental rights. Respondent was not present for the evidentiary and termination hearing. In fact, respondent had ceased participating in services and had not visited or communicated with the minor children in over 91 days. Following an evidentiary and termination hearing, the trial court terminated respondent’s parental rights under MCL 712A.19b(3)(c)(i).

II. STATUTORY GROUNDS

Respondent argues that the trial court erroneously found that there was clear and convincing evidence of a statutory ground to terminate her parental rights. We disagree.¹

“To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established.” *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). Here, the trial court terminated respondent’s parental rights under MCL 712A.19b(3)(c)(i), which is appropriate if “[t]he parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order” and the court finds by clear and convincing evidence that “[t]he 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.”

The record shows that the initial petition was filed because respondent lacked suitable housing and struggled with substance abuse. Shortly before the initial petition was filed, respondent and the minor children were living in a housing shelter until they were evicted because respondent was using drugs. After the minor children were removed from respondent’s custody, a parent-agency treatment plan was developed to address respondent’s specific needs. Under the parent-agency treatment plan, respondent was required to complete random drug screens, attend parenting time, work with a parent aide to obtain housing, employment, and parenting education, attend individual and substance abuse counseling, and complete a psychological evaluation.

Respondent never obtained suitable housing for herself and the minor children. Respondent moved in with her grandmother and uncle, which was unsuitable for the minor children because respondent’s uncle is a registered sex offender. Respondent never applied for housing in a place suitable for the minor children. Respondent was also staying at a friend’s home from time to time, but when the caseworker attempted a home visit of that residence she was denied access.

Respondent never resolved her issues with substance abuse. Under respondent’s parent-agency treatment plan, she was required to complete three drug screens a week. Any missed or diluted drug screen samples were considered a positive result. Respondent completed 35 out of 132 drug screens. Of the 35 drug screens respondent completed, the vast majority tested positive for various controlled substances, including THC, amphetamines and cocaine. Accordingly, the two main factors for bringing the minor children into the court’s jurisdiction continued to exist one year later, and there was no indication that the circumstances that led to the adjudication would be alleviated in a reasonable time.

¹ We review the trial court’s findings regarding statutory grounds for clear error. MCR 3.997(K); *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012). We also review for clear error the trial court’s finding that petitioner made reasonable efforts toward reunification. See *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). A finding is clearly erroneous if we are “left with a definite and firm conviction that a mistake has been made.” *In re Gonzales/Martinez*, 310 Mich App 426, 430-431; 871 NW2d 868 (2015).

Respondent argues that petitioner should have offered her inpatient rehabilitation services. Respondent was offered other services, however, such as random drug screens and substance abuse counseling. She attended half of her scheduled counseling sessions before her case was closed for lack of attendance. She later attended a few more sessions before she was referred to Community Mental Health (CMH), which she failed to follow up on. Her substance abuse counselor described her progress as “poor.”

Respondent also contends that she should have received an updated parent-agency plan to address her diagnosis of personality disorder. However, respondent was never diagnosed with personality disorder; her doctor determined that she exhibited “symptoms of a personality disorder.” Following respondent’s psychological evaluation, it was recommended that she complete a psychiatric evaluation and attend intensive counseling. Respondent’s parent-agency treatment plan was not modified to specifically address respondent’s symptoms of a personality disorder, but she was referred to CMH, where she would have received individual counseling and perhaps a psychiatric evaluation. However, respondent failed to appear for her intake at CMH. Given that respondent received substance-abuse services and was referred to CMH, the trial court did not clearly err in finding that petitioner made reasonable reunification efforts. See MCL 712A.19a(2) (“Reasonable efforts to reunify the child and family must be made in all cases” unless a stated exception applies.).

In addition to respondent’s failure to address her lack of housing and issues with substance abuse, respondent failed to complete other aspects of her parent-agency treatment plan. Following respondent’s one-month incarceration during the pendency of the proceedings, her parent-agency treatment plan was modified to incorporate her probation requirements. Respondent had been incarcerated for drug-related charges, operating a vehicle while impaired, and malicious destruction of personal property. She was required to attend Narcotics Anonymous and Alcoholics Anonymous, but never provided proof that she attended either. Respondent also failed to comply with the parent-aide portion of her parent-agency treatment plan, which was designed to assist respondent in obtaining employment, housing, and parenting skills. Respondent’s parent-aide services were terminated after four months due to respondent’s lack of compliance and communication.

In sum, the record shows that respondent made little to no effort to address the issues that led to the removal of the minor children. Respondent continued to struggle with substance abuse, and she failed to obtain housing and stable employment. Accordingly, there was clear and convincing evidence to terminate respondent’s parental rights pursuant to MCL 712A.19b(3)(c)(i) because more than 182 days had elapsed since the initial dispositional order was issued, respondent failed to rectify the conditions that led to the removal of the minor children and there was no reasonable likelihood that the conditions would be rectified within a reasonable time.

Affirmed.

/s/ Karen M. Fort Hood
/s/ David H. Sawyer
/s/ Douglas B. Shapiro