

STATE OF MICHIGAN
COURT OF APPEALS

In re ADAMS, Minors.

UNPUBLISHED
December 12, 2019

No. 348887
Clinton Circuit Court
Family Division
LC No. 17-027620-NA

Before: SWARTZLE, P.J., and MARKEY and REDFORD, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to the minor children HA and RA under MCL 712A.19b(3)(c)(i) (conditions that led to the adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood that the children will be harmed if returned to parent). Respondent argues that the statutory grounds for termination were not supported by clear and convincing evidence because petitioner, the Department of Health and Human Services (DHHS), failed to provide adequate services to respondent and therefore did not make a reasonable effort to reunify the family. We affirm.

I. FACTS

HA and RA were initially removed after respondent pleaded no contest to manufacturing methamphetamine in the family home on September 22, 2017. The children entered foster care with a number of physical and mental-health issues which were addressed by their foster parents. HA needed dental work, required speech therapy, and suffered from autism and PTSD. RA tested positive at birth for multiple substances, had an enlarged heart and heart murmur, and suffered from Reactive Attachment Disorder (RAD) and anxiety. The children's foster parents took care of their medical and mental-health needs and enrolled the children in counseling and educational programs. The children improved greatly under their care.

Respondent was released from incarceration into a four-year intensive probation program on January 16, 2018. He underwent a psychological evaluation which revealed a moderate methamphetamine addiction and an unspecified turbulent personality disorder. The evaluating psychologist noted that this could make it difficult for respondent to identify when he needs help. The psychologist recommended 18 to 20 months of individual therapy before parenting.

Respondent successfully completed both inpatient and outpatient substance-abuse rehabilitation programs. He attended every class, took advantage of every service offered, and even launched a parenting class at the inpatient rehabilitation center. He obtained housing and full-time employment while completing the programs and started visitation with the children. Parenting time with the children went very well. Respondent always acted appropriately and expressed happiness to see the children, provided follow-through and redirection, and always arrived with snacks and supplies. After respondent completed inpatient rehabilitation, he began a 12-week foster care supportive visitation program to improve his parenting skills. Respondent and the children did so well in the program that the program's caseworker shortened it to six weeks, concluding that respondent was more than capable of parenting.

The children were reunified with respondent on August 31, 2018, and they all continued to do well. Respondent maintained stable employment and housing, and remained substance-free. He reached out to DHHS for help rescheduling the children with Community Mental Health (CMH) in a different county and enrolling them in daycare after experiencing some problems with financial aid. Respondent never indicated that the children caused him stress or that he needed additional services. Neither the DHHS caseworker nor respondent's probation officer had concerns, and the caseworker recommended case closure in October 2018.

Respondent, however, tested positive for methamphetamine on October 23, 2018. He claimed that he mistakenly drank out of a coworker's energy drink laced with methamphetamine. He did not contact his caseworker or his probation officer, which resulted in his being sentenced to three days in jail. The children were removed and placed back with their foster family. Respondent tested negative on October 24, but positive again on October 29. He claimed his ill-functioning liver caused the methamphetamine from the previous dose to remain in his system. His probation officer, however, testified that respondent more likely again used methamphetamine. Respondent tested positive for alcohol in December 2018, which he claimed resulted from drinking a nonalcoholic beer. In February 2019, he tested positive for THC which he argued could have been CBD oil for pain, although expert testimony noted that the use of CBD oil would not cause a positive test result for THC. Respondent was sentenced to serve jail time and start another inpatient rehabilitation program. The children continued to thrive with their foster parents and generally did not ask about respondent. The trial court noted that stability and security were critical for the children's development in light of their special needs and terminated respondent's parental rights on April 19, 2019.

II. STANDARD OF REVIEW

We review for clear error the trial court's determination that clear and convincing evidence established at least one statutory ground for termination. *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). We also review for clear error a trial court's determination that petitioner made reasonable efforts to provide services aimed at reunification. *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005).

III. ANALYSIS

A. REASONABLE EFFORTS

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App at 139. If termination is supported by at least one statutory ground, additional grounds for the trial court’s decision need not be addressed. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).

Respondent argues that none of the statutory grounds for termination were supported by clear and convincing evidence because DHHS did not provide adequate services toward reunification. We disagree.

DHHS “has an affirmative duty to make reasonable efforts to reunify a family before seeking termination of parental rights,” taking into account reasonable accommodations for a parent’s mental-health issues. *In re Hicks/Brown*, 500 Mich 79, 85; 893 NW2d 637 (2017). The DHHS must “expend reasonable efforts to provide services to secure reunification” *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). However, respondent must also cooperate in and benefit from the services. *In re TK*, 306 Mich App 698, 711; 859 NW2d 208 (2014). In this case, the DHHS provided respondent with a number of services specifically aimed at enabling him to reunite with the children. The DHHS coordinated with his probation officer. Respondent had a psychological evaluation, inpatient and outpatient treatment focused on substance abuse and mental health, and a foster care supportive visitation program to assist with parenting. Respondent argues that the foster care supportive visitation service should not have been shortened to a six-week period. The record, however, reflects that the DHHS shortened that service because of respondent’s progress. The caseworker agreed to discharge respondent early from the program because no one had concerns about his ability to parent. Respondent thrived under the program and demonstrated his ability to progress. Respondent’s conduct and sobriety gave service providers confidence that he could succeed. Respondent had everyone believing that he benefited from services warranting the shortening of services.

Respondent argues that DHHS did not make reasonable efforts because it did not offer additional assistance aside from stating that he could reach out for help. Respondent argues that his turbulent personality disorder prevented him from recognizing when he needed to reach out. The record, however, indicates that respondent repeatedly reached out to DHHS for help with setting up his children’s daycare and CMH services. Despite clearly being capable of asking for help and DHHS’s willingness to do so, respondent never reached out to DHHS for additional mental-health services. Respondent did not indicate that he was struggling with sobriety.

The record in this case indicates that the DHHS met its obligations by providing respondent services that enabled him to successfully reunite with the children. The services made available were focused on substance abuse and parenting. Once reunited, the DHHS did not bear the responsibility for providing additional support to prevent relapse. The record reflects that it satisfied its burden of making reasonable efforts to provide services toward reunification, respondent progressed and was able to reunite with the children but he later chose

to use illicit drugs and alcohol. The DHHS provided respondent with adequate services aimed at reunification, and therefore, made reasonable efforts to assist respondent. Nevertheless, respondent used illicit drugs and alcohol and refused to take responsibility for his actions.

B. STATUTORY GROUNDS

Termination is appropriate under MCL 712A.19b(3)(c)(i) when at least 182 days have elapsed since the entry of the initial dispositional order and “the court, by clear and convincing evidence, finds . . . the 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.” In this case, respondent’s substance abuse led to the adjudication. Respondent initially benefited from services but he relapsed. At the time of trial, respondent was again incarcerated for substance use. Although respondent successfully completed two rehabilitation programs and obtained steady employment and housing, he tested positive for drugs again establishing that his substance abuse problem continued to exist which placed the children at risk. Clear and convincing evidence in the record established that respondent failed to make the necessary life changes to maintain his sobriety. The trial court did not err by concluding that the conditions that brought the children into care continued to exist and would not be rectified within a reasonable time considering the children’s ages.

The determination of what constitutes a reasonable time includes both how long it will take for the parent to improve conditions and how long the children can wait for the parent’s improvement. *In re Dahms*, 187 Mich App 644, 648; 468 NW2d 315 (1991). In this case, the children could not wait for respondent’s substance abuse problem to improve because both children immediately needed a stable home in light of their special needs. Given respondent’s history, a substantial risk existed that he would continue to relapse even if he engaged in another rehabilitation program. The record indicates that the children thrived in foster care, having spent, since initial disposition, more than two years in foster care and only two months in respondent’s sole care. The trial court did not err by terminating respondent’s parental rights under MCL 712A.19b(3)(c)(i).¹

Affirmed.

/s/ Brock A. Swartzle
/s/ Jane E. Markey
/s/ James Robert Redford

¹ Because clear and convincing evidence established the existence of one statutory ground supporting termination, we need not address the additional grounds identified by the trial court. *In re HRC*, 286 Mich App at 461.