

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

July 21, 2011

In the Matter of M. T. MOORE, Minor.

No. 301933

Monroe Circuit Court

Family Division

LC No. 09-021275-NA

Before: TALBOT, P.J., and HOEKSTRA and GLEICHER, JJ.

PER CURIAM.

Respondent appeals as of right the order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). The parental rights of the child's father were also terminated, but he is not a party to this appeal. We affirm.

The trial court did not clearly err in finding that clear and convincing evidence supported termination of respondent's parental rights. MCL 712A.19b(5); MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 355; 612 NW2d 407 (2000).

Respondent first argues that the Department of Human Services (DHS) failed to provide her with adequate reunification services. When children are removed from their parent's custody, the agency is required to make reasonable efforts to rectify the conditions that caused the removal by adopting a service plan. MCL 712A.18f; MCL 712A.19a(2); *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005). Failure to make efforts at reunification may prevent the agency from establishing the statutory grounds for termination. *In re Newman*, 189 Mich App 61, 67-68; 472 NW2d 38 (1991). However, in order to succeed on a claim that reasonable efforts were not made, a parent must demonstrate that she would have fared better if the agency had offered other services. *In re Fried*, 266 Mich App at 543.

The agency provided adequate services to respondent, and it was respondent's lack of participation in those services that thwarted reunification efforts. The initial disposition took place in November 2009. Respondent was offered individual and group substance abuse counseling as well as random drug testing. She was cooperative at first but then relapsed in May 2010. Instead of seeking help by regularly attending counseling sessions, respondent stopped going altogether. She also began to miss drug screens. Respondent did not attend AA/NA with regularity. The services offered were appropriate and tailored to respondent's needs, but she failed to avail herself of the services. Additionally, respondent fails to show how additional inpatient treatment would have helped her. In fact, she attended two inpatient programs in June 2010 (Harbor Light) and July 2010 (Sacred Heart). Neither of them helped. Respondent also

left two different three-quarter houses, claiming they “don’t work out for me.” When a parent does not avail herself of the services offered, she should not be heard to complain that more should have been done.

Respondent next argues that the trial court erred in terminating her parental rights when she could have gained control of her substance abuse problem within a reasonable amount of time. Again, the record does not support respondent’s contention. Respondent’s drug use began when she was 13 years old and included marijuana, alcohol, powdered cocaine, inhalants, crack cocaine, and hallucinogens. Much of respondent’s treatment plan at the initial disposition focused on her substance abuse. She was ordered to undergo a substance abuse assessment, submit random drug screens, attend AA/NA at least three times a week, obtain a sponsor, and attend substance abuse counseling. Respondent tested positive for substances one month later but began to comply with her plan. She participated in two separate assessments and began group counseling. When respondent continued to maintain contact with known drug users, her counselor recommended that respondent also attend individual therapy. Respondent attended only four individual sessions and her counselor recommended that respondent attend inpatient treatment. Respondent admitted a significant relapse in May and tested positive for opiates and cocaine. Respondent stopped therapy altogether in June 2010 and entered into a detox treatment at Harbor Light for approximately five days. The treatment did not work and respondent continued to use. She attended another inpatient program at Sacred Heart from July 22, 2010, until August 3, 2010. Following that, respondent left two separate three-quarter houses — one asked her to leave for violating their zero tolerance policy and respondent left the other voluntarily because three-quarter houses did not work for her. Respondent continued abusing drugs for several months, until a few weeks before the termination hearing. Respondent missed numerous screens. She did not attend any AA/NA sessions from May to November 2010. She and the child’s father sold nearly all of their worldly possessions to obtain drug money. By September 2010 the father was jailed on drug charges.

The foregoing evidence demonstrated serious long-term drug abuse. The worker did not believe respondent would be able to provide for the child within a reasonable amount of time. He wanted to see at least six months of sobriety and, because of the depth of respondent’s relapse, believed an even longer period was called for. The worker did not think it was fair to ask the child to wait any longer than the year he already had. Respondent’s counselor refused to render an opinion about how long it would take respondent to recover but believed the first two years were critical and that it took someone who started drugs at such a young age even longer to recover because the drug addict’s adolescence and ability to cope were essentially stunted.

Even respondent’s own family members testified about the extent of respondent’s drug use. Respondent’s mother testified that respondent had not demonstrated any stability for five years. Her brother testified that respondent attempted to cheat on her drug screens. The child’s caregiver and paternal grandmother testified that she had no idea when she took the child in at the age of five weeks that she would still have him at the age of 15 months. The grandmother did not believe either of the child’s parents could resolve their drug issues within a reasonable amount of time.

In recommending termination of respondent’s parental rights, the referee noted that respondent made substantial progress at the beginning of the case but failed to make any progress after May 2010. Because of her drug use, she could not maintain employment or

housing, and did not visit the child regularly. Respondent was either “unable or unwilling to take the steps necessary for lasting sobriety.” The referee noted that respondent was unable to stay clean for six months, let alone the two critical years suggested by her counselor.

Respondent relies on *In re Hulbert*, 186 Mich App 600; 465 NW2d 36 (1990) in support of her theory that the referee was merely speculating about respondent’s future conduct, which was insufficient to establish the statutory grounds to terminate her parental rights. However, *Hulbert* is distinguishable from this case. In *Hulbert*, the trial court terminated parental rights based primarily on the testimony of three experts, who opined that the father’s personality disorders placed the children at risk of harm because the father’s personality *might* render him an unfit parent. *Id.* at 602. This Court found the speculative testimony of what the father *might* do in the future was insufficient to terminate his parental rights, especially in light of the fact that there was minimal evidence of past neglect. *Id.* at 605. In the case at bar, respondent had a significant history that provided the basis for the trial court to conclude that she would not be able to control her addiction within a reasonable amount of time.

The record clearly supports a finding that the conditions leading to adjudication continued to exist and that there was no probability that respondent would be able to resolve the issues within a reasonable amount of time. In addition to respondent’s ongoing substance abuse, she was without stable income or housing. It was clear that she could not provide for the child and that the child would have been at risk of harm if placed in her care.

The trial court also did not clearly err in finding that termination of respondent’s parental rights was in the child’s best interests. MCL 712A.19b(5); MCR 3.977(K). The child was young and needed permanence, stability, and safety. Respondent’s drug use significantly impaired her ability to interact with the child. Although respondent had been granted weekly supervised visits and unlimited visits at the grandmother’s home, she did not visit the child at all during her relapse from June until September 2010. Respondent visited four times just before the termination hearing. The caregiver testified that the child seemed to enjoy the visits but that he certainly did not recognize respondent as his mother. Termination of respondent’s parental rights was in the child’s best interests. He could not wait an indefinite period of time for his mother to conquer her addiction.

Affirmed.

/s/ Michael J. Talbot
/s/ Joel P. Hoekstra
/s/ Elizabeth L. Gleicher