

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 1, 2011

In the Matter of FLORES, Minors.

No. 302798
Clinton Circuit Court
Family Division
LC No. 10-022029-NA

Before: SHAPIRO, P.J., and WILDER and MURRAY, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the two minor children pursuant to MCL 712A.19b. We affirm.

Respondent's parental rights were terminated under MCL 712A.19b(3)(g) and (j), which provide:

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Although respondent does not expressly challenge the trial court's conclusion that clear and convincing evidence supported the statutory grounds for termination of her parental rights, her assertion that reasonable services were not offered ultimately relates to the sufficiency of the evidence. *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005). The trial court's overall decision regarding termination of parental rights and its decision regarding the children's best interests are reviewed for clear error. MCL 712A.19b(5); MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Generally, petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan. MCL 712A.18f; *In re HRC*, 286 Mich App 444, 465-466; 781 NW2d 105 (2009). Respondent argues that she was unable to resolve her substance abuse problems because petitioner failed to make reasonable efforts and arrange for

her to enroll in an inpatient treatment program. We find no clear error in the trial court's finding that reasonable efforts were made.

There was substantial evidence that respondent had a long history of alcohol and marijuana abuse and had not made any progress toward gaining and maintaining sobriety. During the termination hearing, respondent was in jail for operating a vehicle while under the influence, third offense. Respondent began using substances when she was 12 years old, and she drank between 30 and 40 beers a day. Respondent abused alcohol and marijuana while pregnant with both children and continued using alcohol and marijuana throughout the case. Respondent submitted positive drug and alcohol screens and missed many other screens, which were considered positive. Respondent had been referred to services for substance abuse in the past, including two 30-day inpatient programs, but was unsuccessful at maintaining sobriety. In this case, respondent had petitioner and her probation officer providing referrals and setting up services. She participated only minimally in these services and did not benefit. Respondent attended only 4 of 12 appointments for substance abuse counseling. Respondent was not receptive to another admission to inpatient treatment and admitted that she would only be submitting to it to avoid jail time. Based on her substance abuse assessment, respondent's prognosis for sobriety was very poor, considering her past failed attempts at maintaining abstinence, her high tolerance for alcohol, her pattern of behavior, and her failure to maintain abstinence throughout the entire course of treatment.

Respondent had voluntarily released her parental rights to another child in 2005, after she failed to benefit from services to resolve her substance abuse issues. Respondent also had a daughter who lived in Utah with her father and had not seen respondent in over a year. Respondent attended only eight supervised visits with the two children at issue in this appeal. Respondent did not show up for scheduled visits, she cancelled them, or the visitation supervisor was unable to contact respondent. The children's father testified that, when he and respondent were living together, he was afraid to leave the oldest child alone with her because of her drinking, and he would take the child to day care when he went to work. The foster care worker visited respondent in jail twice and offered supervised visitation services while respondent was in jail. Respondent failed to follow up with the worker for further visitation with her children.

Based on these circumstances, the trial court did not clearly err in determining that reasonable efforts had been made to reunite respondent with her children. Respondent's failure to take advantage of or benefit from these services did not negate the fact that petitioner made these services available for respondent. The evidence also established that respondent had failed to provide proper care and custody for her children in the past, there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering the children's young ages (not quite one and two years old at the termination hearing), and there was a reasonable likelihood the children would be harmed if returned to respondent's care. MCL 712A.19b(3)(g) and (j).

In addition, there was clear and convincing evidence that termination of respondent's parental rights was in the children's best interests. Respondent put both of her children's lives in danger when she abused alcohol and marijuana while she was pregnant with them. There was no evidence that the children missed respondent because they never really spent much time with her and were always with their father. There was no evidence that respondent had made any

meaningful effort to reunite with her children, and the trial court did not err in terminating respondent's parental rights.

Affirmed.

/s/ Douglas B. Shapiro

/s/ Kurtis T. Wilder

/s/ Christopher M. Murray