

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 13, 2011

In the Matter of WALKER, Minors.

No. 303970
Wayne Circuit Court
Family Division
LC No. 09-486374

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Before: MURPHY, C.J., and JANSEN and OWENS, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal by right the trial court's orders terminating their parental rights to their two older children under MCL 712A.19b(3)(c)(i), (g), and (j), and to their youngest child under MCL 712A.19b(3)(g) and (j). We affirm.

Respondents first contend that the trial court clearly erred by terminating their parental rights because the Department of Human Services (DHS) did not make reasonable efforts toward reunification. A claim that the respondent was not provided reasonable services directed toward reunification is relevant to the sufficiency of the evidence for termination of parental rights. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005); *In re Newman*, 189 Mich App 61, 66-67; 472 NW2d 38 (1991). The trial court record does not support respondents' argument. DHS made reasonable efforts toward reunification by making timely referrals and providing other support services for respondents throughout this case.

Next, respondents contend that the trial court clearly erred in finding clear and convincing evidence to support the statutory grounds for termination. On appeal from termination of parental rights proceedings, this Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(K); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). Further, regard is to be given to the special opportunity of the trial court to judge the

credibility of the witnesses who appear before it. MCR 3.902(A); MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent mother received numerous diagnoses of serious mental health and substance abuse problems and recommendations for mental health and substance abuse treatment. She was referred to services, re-referred, and court ordered to comply with the treatment plan, yet she made little effort to comply. Respondent mother made no progress and demonstrated no benefit from the attempts by the DHS and the court to reunify her with her children. Instead, she made numerous excuses, placed the blame on the workers and others, and gave false testimony under oath concerning when services were offered. Similarly, respondent father refused to cooperate during most of the proceedings, based on his argument that it was not his fault that the children were removed from the home. He continually blamed everyone but himself for the situation. He refused to attend or participate in any of the services until right before the termination hearing, and then he made it very clear in his testimony that he was only “going through the motions” because he already knew everything that he needed to know. Additionally, he did not accept any responsibility for the situation and was confrontational and uncooperative at the hearing. Finally, he also gave false testimony under oath about services. Respondents’ failure to comply with their treatment plans was evidence of their failure to provide proper care or custody for their children. MCL 712A.19b(3)(g); *JK*, 468 Mich at 214; see also *In re Trejo Minors*, 462 Mich 341, 360-363; 612 NW2d 407 (2000). Based on the same facts, there was clear and convincing evidence that there was a reasonable likelihood that the children would be harmed if they were returned to the home. MCL 712A.19b(3)(j).

Nor did the trial court err by finding clear and convincing evidence to support termination under MCL 712A.19b(3)(c)(i) with regard to the two older children. The conditions that led to the adjudication continued to exist. By her failure to fully comply with services and to demonstrate any benefit from services, or to address her numerous mental health issues and her substance abuse, respondent mother clearly demonstrated that there was no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time, considering the children’s ages. Respondent father contends that this statutory ground did not apply to him because he only admitted at adjudication that he was in arrears on child support payments and there was no evidence that he was still in arrears at the termination hearing. However, respondent father’s refusal to comply with services, his negative attitude and his lack of cooperation, his insistence that he had no responsibility for the conditions that led to the adjudication, his placing of blame on everyone but himself, and his refusal to accept any responsibility or agree that he had anything to gain from services, provided clear and convincing evidence to support termination of his parental rights under MCL 712A.19b(3)(c)(i). Further, any error by the trial court in finding this ground with regard to respondent father would be harmless because only one statutory ground for termination needs to be established. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Finally, respondents argue that the trial court clearly erred by finding that termination of their parental rights was in the best interests of the children. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court must find that termination is in the child’s best interests before it can order termination of parental rights. MCL 712A.19b(5). The trial court’s decision regarding the child’s best interests is reviewed for clear error. *Trejo Minors*, 462 Mich at 356-367. The record shows that neither respondent

demonstrated a commitment to their children. Instead of complying with the requirements of the treatment plan and the orders of the court, respondents found every excuse to avoid compliance, including excuses for not attending visitation, and were uncooperative. They blamed everyone but themselves and even gave false testimony to excuse their noncompliance. Neither respondent gained any insight into their own shortcomings and problems. The children would not be safe with respondents under these conditions. The children deserved permanence and a stable home. Respondents demonstrated that they did not care enough about their children to try to improve or make the necessary changes. The trial court did not clearly err by finding that termination was in the best interests of the children. MCL 712A.19b(5).

Affirmed.

/s/ William B. Murphy

/s/ Kathleen Jansen

/s/ Donald S. Owens