STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
August 20, 2013

In the Matter of HINTON, Minors.

No. 314600
Calhoun Circuit Court
Family Division
LC No. 2011-002698-NA

Before: SAAD, P.J., and K. F. KELLY and GLEICHER, JJ.

PER CURIAM.

Respondent-mother appeals the January 9, 2013 order terminating her parental rights to two minor children pursuant to MCL 712A.19b(c)(*i*), (c)(*ii*), (g), and (j). For the reasons set forth below, we affirm.

The children were removed from respondent's care after Children's Protective Services received complaints about respondent's parenting and supervision. The trial court ordered respondent to participate in a case services plan that required her to undergo a psychological evaluation, attend and complete parenting classes, find stable housing and employment, and undergo counseling. During the 16 months in which this case was pending, respondent completed the psychological evaluation, obtained stable housing and employment, and underwent weekly counseling. She did not, however, complete parenting classes, despite four different referrals to the classes.

Respondent argues that petitioner failed to provide her with adequate services to enable her to reunite with the children. In making this argument, she refers to testimony at the termination hearing that she suffered from depression, and argues that her depression prevented her from being able to complete parenting classes. She contends that petitioner failed to provide her with adequate services because petitioner did not provide her with a means to address her depression.

"Generally, when a child is removed from the parents' custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a

service plan." *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009).[1] And, ordinarily, this Court reviews for clear error the trial court's factual finding that reasonable efforts were made to enable reunification of a respondent with her children. *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). However, because respondent failed to raise this issue at the termination hearing, our review is for plain error affecting substantial rights. *In re VanDalen*, 293 Mich App 120, 135; 809 NW2d 412 (2011).

Respondent's argument lacks record support. Respondent underwent a psychological evaluation with Dr. Randall Haugen. Dr. Haugen's report stated that respondent needed to undergo "[f]airly intensive parent training and lifestyle management." The report recommended parenting classes and noted that respondent may have been depressed, but it did not indicate that respondent's depression would act as a barrier to her successful completion of parenting classes. Based on this evaluation, the record does not support that petitioner should have known that it needed to address respondent's depression before she could participate in parenting classes.

Moreover, Beatrice Henry-Wheeler, who had weekly counseling sessions with respondent and who testified concerning respondent's depression at the termination hearing, did not indicate that respondent was unable to participate in parenting classes because of her depression. When asked why respondent did not participate in parenting classes despite being referred to the classes on four separate occasions, Henry-Wheeler responded, "I have no idea." Additionally, despite her depression, respondent successfully completed other services offered by petitioner, such as obtaining employment and stable housing, and attending weekly counseling sessions. Furthermore, respondent's argument that petitioner should have provided her additional services is without merit because she failed to participate in the services that were offered to her. *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). Indeed, "[w]hile the DHS has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondent-mothers to participate in the services that are offered." *Id.* Here, services were offered to respondent, and although she participated in some of them, she did not participate in all of them. The fact that she did not participate in the services available to her does not suggest that she would have participated in more services had petitioner provided her with them. See *In re Fried*, 266 Mich App at 543. Respondent has not established plain error requiring reversal with regard to the reasonableness of petitioner's reunification efforts. See *In re VanDalen*, 293 Mich App at 135.

Respondent challenges the trial court's findings that there were statutory grounds for termination, and whether termination was in the children's best interests. An appellate court "review[s] for clear error both the [trial] court's decision that a ground for termination has been proven by clear and convincing evidence and, where appropriate, the [trial] court's decision regarding the child's best interest." *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A trial court's decision "is clearly erroneous if, although there is evidence to support it, the

[1] There is an exception to the general rule when the case involves "aggravated circumstances," *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010); however, the exception does not apply herein.

reviewing court . . . is left with the definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). With regard to statutory grounds, the trial court need only find one statutory ground for termination. *In re Frey*, 297 Mich App at 244. Further, in order to uphold the trial court's termination decision, if the trial court found multiple grounds for termination, this Court only needs to find that petitioner established by clear and convincing evidence one ground for termination. *In re CR*, 250 Mich App 185, 196; 646 NW2d 506 (2002).

The trial court did not clearly err when it found that statutory grounds for termination existed pursuant to MCL 712A.19b(3)(c)(*i*). Section 19b(3)(c)(*i*) is satisfied if petitioner produces clear and convincing evidence that:

> (c) The 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, by clear and convincing evidence, finds either of the following:
>
> (*i*) 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. [MCL 712A.19b(3)(c)(*i*).]

Here, the condition that led to adjudication was respondent's deficient parenting skills. This condition continued to exist 182 days or more after the issuance of the initial dispositional order, because respondent failed to attend parenting classes that would have addressed her deficient parenting skills. Furthermore, there was a reasonable likelihood, based on the children's ages, that this condition could not be rectified within a reasonable time. Indeed, respondent had approximately 16 months to complete the parenting classes, but she failed to do so. In so ruling, we reject respondent's argument that she should have been given more time before her parental rights were terminated. We have explained that in enacting § 19b(3)(c)(*i*), "the Legislature did not intend that children be left indefinitely in foster care, but rather that parental rights be terminated if the conditions leading to the proceedings could not be rectified within a reasonable time." *In re Dahms*, 187 Mich App 644, 647; 468 NW2d 315 (1991).

Because the trial court did not clearly err in ruling that a statutory ground for termination existed pursuant to § 19b(3)(c)(*i*), we need not address the remaining statutory grounds for termination. *In re CR*, 250 Mich App at 196. However, we address respondent's argument that the petitioner created the condition that led to termination. As discussed, respondent maintains that petitioner required her to attend parenting classes, but did not treat her depression, which she claims kept her from attending parenting classes. Respondent cites *In re B & J*, 279 Mich App 12, 19; 756 NW2d 234 (2008), in which this Court ruled that "the state may not set out with the overt purpose of virtually assur[ing] the creation of a ground for termination of parental rights." (quotation omitted; alteration in original). In *In re B & J*, the petitioner initiated an action that led to the respondents' deportation, and then relied on the fact that the respondents had been deported when it sought termination of their parental rights. *Id.* at 17-20. This case is readily distinguishable from *In re B & J*. Here, petitioner did not create the condition that led to termination. Rather, respondent's deficient parenting skills led to termination. Further, there is no merit to respondent's assertion that petitioner "virtually assur[ed] the creation of a ground for termination of parental rights" by requiring her to attend parenting classes without treating her

depression because, as discussed, there is no evidence that respondent needed treatment for her depression before she could attend parenting classes.

We further hold that the trial court did not clearly err when it ruled that termination of respondent's parental rights was in the children's best interests. Respondent's poor supervision and neglect led to the removal of her children, and she failed to attend and benefit from parenting classes despite four different referrals for the classes. Further, when respondent had supervised parenting time with the children, she often stayed in her bedroom and let the children wander around her apartment unsupervised. Although respondent complied with parts of the court-ordered services plan and showed improvement in some areas, she demonstrated an inability to safely parent her children throughout the proceedings and Dr. Haugen asserted that respondent's prognosis for change was "poor." Moreover, the children needed permanence and stability, which respondent could not provide. Thus, the court correctly ruled that termination was in the children's best interests. See *In re Frey*, 297 Mich App at 248-249.

Affirmed.

/s/ Henry William Saad
/s/ Kirsten Frank Kelly
/s/ Elizabeth L. Gleicher