

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DALVIN RASHAD BAKER,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAMIKA DANIEL BAKER,

Respondent-Appellant,

and

ALI DOE,

Respondent.

UNPUBLISHED
September 18, 2003

No. 242639
Wayne Circuit Court
Family Division
LC No. 01-399581

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

PER CURIAM.

Respondent-appellant Damika Baker (hereafter “respondent”) appeals as of right from the trial court’s order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), (j) and (k)(i).¹ We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Sours Minors*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If the court determines that a statutory ground for termination has been established, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child’s best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d

¹ The referee’s report also refers to § 19b(3)(a)(i). That subsection, which refers to abandonment by an “unidentifiable” parent, is clearly applicable only to the child’s putative father, who is not a party to this appeal.

407 (2000). We review the trial court's decision for clear error. *Id.* at 356-357; *In re Sours, supra* at 633. The decision must strike this Court as more than just maybe or probably wrong. *Id.*

Respondent argues that the statutory grounds for termination were not established because petitioner failed to adequately assist her and did not give her sufficient opportunities to improve. We disagree.

A trial court is required to state whether reasonable efforts have been made to prevent a child's removal from the home or to rectify the conditions that caused the child's removal. MCL 712A.18f(4). Services are not required in every case, but if the petitioner does not offer services, the statute requires that the petitioner justify its decision. MCL 712A.18f(1)(b); *In re Terry*, 240 Mich App 14, 25 n 4; 610 NW2d 563 (2000). Although a petitioner's failure to make reasonable efforts does not alone establish a basis for relief, the absence of reasonable effort may be relevant to assessing whether the statutory grounds for termination were established. See, e.g., *In re Newman*, 189 Mich App 61, 65-68; 472 NW2d 38 (1991). For example, if the respondent is amenable to treatment and services were not offered, a court may conclude that the petitioner has failed to sustain its burden of showing no reasonable likelihood of change. *Id.*

In this case, the evidence indicates that petitioner made referrals for parenting classes, psychological and psychiatric evaluations, and a substance abuse assessment, but respondent failed to follow through with any of the referrals. Respondent does not suggest what else petitioner could have, or should have, done to reunite her with her child. The evidence indicates that petitioner's efforts were fruitless because respondent was unwilling to regularly take her medication for her mental illness.

The trial court did not clearly err in finding that the statutory grounds for termination were proven by clear and convincing evidence. *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). The child was removed from respondent's care, in part, because of her mental illness. During the time the child was a temporary court ward, respondent did not take medication that had been prescribed to treat her mental illness and was hospitalized at least twice for treatment. In light of respondent's failure to adequately address her mental illness, the trial court did not clearly err in determining that termination was warranted under § 19b(3)(c)(i). *In re Miller*, 182 Mich App 70, 83; 451 NW2d 576 (1990). Similarly, the trial court did not clearly err in determining that termination was also warranted under § 19b(3)(j), because there was a reasonable likelihood that the child would be harmed if returned to respondent's care.

The court also did not clearly err in finding that § 19b(3)(g) was established. Respondent's failure to comply with the treatment plan is evidence of her failure and continuing inability to provide proper care and custody for her child. *In re Trejo, supra* at 360-363.

The court also did not clearly err in finding that § 19b(3)(k)(i) was established where, for approximately six months during the time that the child was a temporary court ward, respondent's whereabouts were unknown, and she had not visited him for approximately two months before her disappearance.

Finally, in the absence of clear evidence that termination of respondent's parental rights was not in the child's best interests, the court properly terminated respondent's parental rights to the child. MCL 712A.19b(5); *In re Trejo, supra* at 353.

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Kurtis T. Wilder