

STATE OF MICHIGAN  
COURT OF APPEALS

---

In the Matter of C. GORDON, Minor.

UNPUBLISHED  
August 14, 2014

Nos. 320228; 320231  
Calhoun Circuit Court  
Family Division  
LC No. 2012-002698-NA

---

Before: M. J. KELLY, P.J., and SAWYER and HOEKSTRA, JJ.

PER CURIAM.

In Docket No. 320228, respondent-father appeals as of right the order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (j). In Docket No. 320231, respondent-mother appeals as of right the order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (i), and (j). We affirm.

In August of 2011, the trial court removed the minor child's two half-siblings from respondent-mother for neglect and, ultimately, terminated her parental rights to the child's half-siblings on January 9, 2013.<sup>1</sup> While the termination hearing was pending, the minor child at issue was born to respondents on December 19, 2012. On December 21, 2012, the child was removed from respondents and placed in the foster home where his half-siblings were already placed. On January 10, 2014, the trial court terminated respondents' respective parental rights to the child.

"This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *Id.*

The child was removed from respondents and placed in foster care when he was two days old, and he continued in that placement for the duration of the case. Respondents' counselor

---

<sup>1</sup> We affirmed the termination of respondent-mother's parental rights in that case. *In re Hinton*, unpublished opinion per curiam of the Court of Appeals, issued August 20, 2013 (Docket No. 314600).

testified that it was not safe for the child to be returned to respondents at the time of termination. Both respondents failed the parenting class they attended and failed to participate in their subsequent referrals for different parenting classes. Throughout the case, respondents were instructed that reunification required respondents to consistently attend their supervised parenting times and demonstrate proper parenting skills. However, respondents missed the vast majority of their scheduled parenting time visits, and their attendance worsened during the months directly preceding termination. At the termination hearing, the caseworker testified that respondents had not demonstrated the ability to properly care for the child and they had made “zero progress” in the previous 90 days. In short, nothing in the record supported that respondents provided the child with proper care and custody or that—based on their disinterest and lack of progress—there was “a reasonable expectation that” either respondent would “be able to provide proper care and custody within a reasonable time considering the child’s age.” MCL 712A.19b(3)(g). The trial court’s finding that MCL 712A.19b(3)(g) provided a statutory ground for termination of respondents’ respective parental rights to the child does not leave us with “a definite and firm conviction that a mistake has been made.” *In re Hudson*, 294 Mich App at 264. See *In re BZ*, 264 Mich App 286, 300-301; 690 NW2d 505 (2004) (holding that “the trial court did not clearly err in finding that § 19b(3)(g) was established by clear and convincing evidence” where the respondent “only minimally complied with the more important aspects of the family plan, including visitation with the children”).

Having concluded that the trial court did not clearly err by finding a statutory ground for termination under MCL 712A.19b(3)(g), we do not need to address the trial court’s additional grounds for termination, MCL 712A.19b(3)(i) (parental rights to one or more siblings of the child have been terminated for neglect or abuse) and (j) (child will be harmed if returned to parent). *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). Nevertheless, we also find that the record supported the trial court’s finding that MCL 712A.19b(3)(i) warranted termination of respondent-mother’s parental rights and (j) constituted an additional ground for termination of both respondents’ rights.

Furthermore, we do not find that the trial court clearly erred by determining that termination of respondents’ respective parental rights was in the child’s best interests. *In re Hudson*, 294 Mich App at 264.<sup>2</sup> At the time of termination, the child had been in foster care for more than a year, where he was thriving in a pre-adoptive foster home with his half-siblings. The caseworker testified that termination was in the child’s best interests. She specifically testified that it would not be in the child’s best interests to give respondents more time, noting that respondents made “zero progress” in the previous 90 days. In determining that termination was in the child’s best interests, the trial court found that the child needed permanence and stability and that he was thriving in his foster home. On the record before us, the trial court’s best interests finding does not leave us “with a definite and firm conviction that a mistake has been made.” *Id.* See *In re Trejo Minors*, 462 Mich 341, 364; 612 NW2d 407 (2000) (“[W]e cannot conclude that the court’s assessment of the children’s best interests was clearly erroneous. . . . The court did not clearly err by refusing to further delay permanency for the children, given

---

<sup>2</sup> We note that only respondent-mother actually raises this argument on appeal.

the uncertain potential for success and extended duration of respondent's reunification plan."); *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011) (holding that "[t]he evidence clearly supported the trial court's finding that termination was in the children's best interests" where "[t]he children had been placed in a stable home where they were thriving and progressing and that could provide them continued stability and permanency given the foster parents' desire to adopt them").

Respondents also argue that they did not receive reasonable reunification efforts. We disagree. We generally review the trial court's findings of fact, including whether petitioner made reasonable efforts to reunify the family, for clear error. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90; 763 NW2d 587 (2009). However, our review of respondents' unpreserved claims of error regarding reunification efforts is "limited to plain error affecting substantial rights." *In re Utrera*, 281 Mich App 1, 8-9; 761 NW2d 253 (2008), citing *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). "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 at 462. Although a petitioner generally "has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012).

The trial court consistently found that respondents received reasonable reunification efforts. The record supports that respondents received various services, such as case management, parenting class referrals, psychological evaluations, counseling, supervised parenting time, and transportation to and from parenting time. The foregoing services supported the trial court's finding that respondents received reasonable reunification efforts. See *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). Moreover, the trial court found, and the record supports, that respondents did not comply with some of their service referrals and did not benefit from the reasonable reunification efforts that were made. Petitioner provided each respondent with well over 100 supervised parenting time visits during the case and transportation assistance to and from the visit location, but respondents each missed approximately 80 percent of their parenting time visits. The record supported that respondents' extremely poor parenting time attendance throughout the case precluded them from developing a bond with the child or demonstrating proper parenting skills. Furthermore, respondents did not pass their first parenting class or demonstrate any benefit from the class; and even if this failure were attributed to their learning disabilities, neither of them participated in the second parenting classes to which they were referred. Thus, the record supports that respondents failed to satisfy their "commensurate responsibility . . . to participate in the services that [] [were] offered," *In re Frey*, 297 Mich App at 248, and the trial court did not plainly err by finding that respondents received reasonable reunification efforts, but those efforts were unsuccessful, *In re Utrera*, 281 Mich App at 8-9.

On appeal, both respondents assert that they did not receive reasonable reunification efforts because they did not receive services to address their respective learning disabilities. In particular, respondents assert that petitioner should have implemented a more "hands-on" approach to services. Respondents' counselor indicated that both respondents had learning disabilities that hindered their ability to read and comprehend materials and that they would benefit from a "hands-on approach" services regarding parenting skills. For the entire duration of the case, petitioner provided respondents with numerous *supervised* parenting times, at which

respondents would have received some “hands-on” assistance with parenting skills. However, respondents consistently failed to attend their scheduled parenting time visits, particularly during the months directly preceding termination. Moreover, neither respondent participated in the additional parenting classes to which petitioner referred them. Thus, we are not persuaded by respondents’ assertion that petitioner should have provided more “hands-on” services, when they consistently failed to comply with the services already provided to them. Again, respondents failed to satisfy their “commensurate responsibility . . . to participate in the services that [] [were] offered.” *In re Frey*, 297 Mich App at 248.

Respondent-father also argues that petitioner failed to make reasonable reunification efforts by placing the child in a foster home in a different county than where respondents lived and by requiring respondents to call and confirm each scheduled parenting time visit. The record supports that petitioner placed the child in his foster home—which was approximately one hour from Battle Creek where respondents lived—so that the child could be with his half-siblings. Petitioner made parenting time available to respondents in Battle Creek, but respondents failed to attend many of the scheduled visits in Battle Creek, including visits scheduled to occur at their own home. Petitioner also provided respondents with transportation to visits that were located outside Battle Creek, but respondents consistently failed to appear for their scheduled parenting times. The record supports that petitioner required respondents to call and confirm their intention to attend the scheduled parenting times on the morning of the visit in order to avoid wasting time and resources arranging parenting time visits if respondents were not going to attend the particular visit. At the termination hearing, respondent-father testified that his failure to attend parenting time visits was his fault and not petitioner’s fault. Therefore, the record does not support that respondent-father’s reunification services were unreasonable on the basis of the child’s placement or the parenting time arrangement. See *In re Frey*, 297 Mich App at 248.

Affirmed.

/s/ Michael J. Kelly  
/s/ David H. Sawyer  
/s/ Joel P. Hoekstra