

STATE OF MICHIGAN
COURT OF APPEALS

In re WALTHER, Minors.

UNPUBLISHED
October 9, 2014

No. 320341
Arenac Circuit Court
Family Division
LC No. 10-011355-NA

Before: SHAPIRO, P.J., and WHITBECK and STEPHENS, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court’s order terminating her parental rights to her two minor children under MCL 712A.19b(3)(c)(ii) (conditions that led to adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care or custody), and MCL 712A.19b(3)(j) (reasonable likelihood of harm). We affirm.

The trial court took jurisdiction over the children on October 17, 2012, based on respondent’s pleas to allegations in the petition. She admitted that she had been arrested for concealing and receiving stolen property, that her house was “dirty” and in “unacceptable condition,” that the children had been previously removed from her home in 2010 because of domestic violence and that she had been offered services, that she possessed prescription drugs that were not prescribed to her, and that she had been twice convicted of crimes. Respondent was immediately offered various services to address these issues. After several dispositional review hearings, the trial court terminated respondent’s parental rights to both children on January 16, 2014. At the termination hearing, the trial court found that petitioner had made reasonable efforts to reunify respondent with the children and that respondent failed to sufficiently participate in and benefit from the services provided.

Respondent’s sole argument on appeal is that petitioner failed to offer adequate services in order to reunify her with her children.¹ “In general, when a child is removed from the parents’

¹ A trial court’s factual findings following a termination of parental rights hearing are reviewed for clear error. MCR 3.977(K). “A finding is clearly erroneous [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.” *In re Rood*, 483 Mich 73, 91; 763 NW2d 587 (2009) (internal quotation marks and citations omitted; alteration in *Rood*).

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 Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005), citing MCL 712A.18f(1), (2), & (4). However, "[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 respondents to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). Where a respondent does not adequately participate in and benefit from the services that are in fact provided, she is not entitled to assert that the petitioner was required to provide additional services. *Id.*

It is evident that respondent did not adequately participate in and benefit from services that petitioner provided. Respondent's self-described "outpatient therapist" from December 2012 until March 2013 testified that respondent missed five appointments with him and that she was generally uncooperative. He testified that respondent "didn't seem really interested in engaging and working on the issues that [they] had for treatment." He testified that he was uncertain whether respondent had made any progress through therapy and that he had the same concerns with respondent's parenting in March 2013 as when he initially began seeing her in December 2012. Respondent admitted that in March 2013 she was arrested on new criminal charges a few weeks after being released from incarceration. When she was released in October, she failed to attend a hearing in this case. At that hearing, an Arenac County DHS foster-care worker said that respondent was refusing services, explaining, "[S]he reports she wants to work at Sterling Area Health Center, hasn't contacted them to set up services, she's got no housing, she won't tell me where she's staying, somewhere with a friend in Pinconning, no employment." At the review hearing held on December 19, respondent admitted that she had not contacted anyone regarding the case. She reported that she did not have a job and admitted that she did not "have anything to offer" her children financially. The foster-care worker said that respondent had "been back in jail three or four times, all for failed drug screens."

At the termination hearing, the foster-care worker testified that respondent had only signed one out of four service plans and that she had not complied with any of the service plans. Asked whether respondent had "availed herself of any services since she's been out of jail," the foster-care worker answered, "Not that I'm aware of. Well, working with her probation officer, I guess." "She hasn't worked on mental health issues . . . she continues to relapse on drugs" and refused the mental health services that petitioner offered.

The trial court credited the assertions of respondent's therapist and foster-care worker, and respondent does not allege that it was clearly erroneous for the court to do so. In addition, it is uncontested that respondent incurred criminal charges during the pendency of these proceedings and that she continued to use illegal drugs. Consequently, because respondent failed to take advantage of and benefit from the efforts petitioner made toward reunification, she is not entitled to claim that petitioner was required to expend additional efforts.

Accordingly, respondent is not entitled to reversal on the grounds that petitioner failed to make reasonable efforts to reunify respondent with her children. *In re Frey*, 297 Mich App at 248.

Affirmed.

/s/ Douglas B. Shapiro
/s/ William C. Whitbeck
/s/ Cynthia D. Stephens