

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
April 16, 2013

In the Matter of COOK, Minors.

No. 313109
Genesee Circuit Court
Family Division
LC No. 09-125025-NA

Before: JANSEN, P.J., and SAWYER and SERVITTO, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to J. Cook and M. Cook (collectively, “the minor children”), pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (without regard to intent, failure to provide proper care or custody), (i) (parental rights to one or more siblings have been terminated due to serious and chronic neglect or physical or sexual abuse), (j) (reasonable likelihood of harm if child is returned to parent’s home), and (l) (parent’s rights to another child were terminated). We affirm.

First, respondent argues that the trial court erred in finding that the Department of Human Services (DHS) made reasonable efforts to reunify her with the minor children. We disagree.

We review for clear error the trial court’s decision that a statutory ground for termination has been proven by clear and convincing evidence. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). “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.” *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011), citing *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

“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 proved by clear and convincing evidence.” *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). Only one statutory ground needs to be established. *Id.* If a statutory ground for termination exists, then the court must terminate parental rights unless termination is “clearly not in the child’s best interests.” *In re Fried*, 266 Mich App at 543.

Generally, when a child is removed from a parent’s custody, the removing agency must “make reasonable efforts to rectify the conditions that caused the child’s removal by adopting a service plan.” *In re Fried*, 266 Mich App at 542; see also MCL 712A.18f(1), (2), and (4).

Before entering an order of disposition, the trial court must find whether reasonable efforts have been made. *In re Plump*, 294 Mich App 270, 272; 817 NW2d 119 (2011). However, the agency does not have to provide services and make reasonable efforts in all cases. *In re Smith*, 291 Mich App 621, 623; 805 NW2d 234 (2011); see also MCL 712A.19a(2). For example, reasonable efforts to rectify the conditions that led to a child's removal do not need to be made when the parent's rights to the child's sibling have been involuntarily terminated. MCL 712A.19a(2)(c); *In re Smith*, 291 Mich App at 623. If services are not provided, the agency must report to the court in writing why they were not provided. MCL 712A.18f(1)(b).

Respondent's arguments lack merit because DHS was not required to provide her with services or make reasonable efforts. Respondent does not dispute that her rights to another child, D. Cook, were previously terminated. DHS is not required to make reasonable efforts to rectify the conditions that led to a child's removal when the respondent's parental rights have previously been involuntarily terminated with respect to one of the child's siblings. See MCL 712A.19a(2)(c).

Nonetheless, DHS provided respondent with services and made reasonable efforts to reunite respondent with the minor children.¹ The minor children were removed from respondent's home because of respondent's domestic violence issues with her mother and her substance abuse problems. DHS provided respondent with numerous referrals and services to address these issues, including domestic violence classes, anger management classes, a substance abuse assessment, two outpatient alcohol treatment programs, and an inpatient alcohol treatment program. Respondent received mental health treatment, was required to complete random drug screens, and had supervised visitation with the minor children.

Although respondent made progress on the domestic violence issue, she continued to test positive for alcohol on her drug screens, even after completing the two outpatient treatment programs. These services constitute reasonable efforts toward reunification, which DHS was not even required to make because respondent's rights to D. Cook, the minor children's sibling, had already been involuntarily terminated. See MCL 712A.19a(2)(c); *In re Smith*, 291 Mich App at 623. This prior termination also provides a statutory ground for termination, pursuant to MCL 712A.19b(3)(i) and (l). Only one statutory ground needs to be established. *In re Ellis*, 294 Mich App at 32.

Second, respondent contends that the trial court clearly erred in determining that termination of her parental rights was in the minor children's best interests. We disagree.

¹ DHS's initial petition to terminate respondents' parental rights did not include her prior terminations as a statutory ground. After the termination hearing and during her closing statement, the lawyer-guardian ad litem asked the court to allow amendment of the termination petition to add the statutory grounds of MCL 712A.19b(3)(i) and (l). It appears the court allowed this amendment, as it found that DHS met its burden with respect to these grounds, and others, during its oral decision.

If a statutory ground for termination exists, then the court must terminate parental rights unless termination is “clearly not in the child’s best interests.” *In re Fried*, 266 Mich App at 543. In this case, the trial court found that termination was in the minor children’s best interests because respondent continued to have substance abuse problems, despite receiving substantial treatment for an extended period, and the children needed a stable and permanent home. This finding was not clearly erroneous.

J. Cook was removed from respondent’s custody on January 10, 2011, when respondent was arrested for domestic violence against her mother. J. Cook, who was only one year old at the time, was in the care of respondent and her mother, both of whom were extremely intoxicated. Respondent’s blood alcohol content was 0.23 and she was approximately six months pregnant with M. Cook. Since then, respondent has completed two outpatient treatment programs for alcohol abuse. Respondent’s participation in the programs was inconsistent. Even after completing both programs, she continued to miss drug screenings and test positive for alcohol. Despite the extensive services provided to respondent over a period of approximately 18 months, her problems with alcohol persisted. The court did not clearly err in concluding that termination was in the minor children’s best interests because they need stability that respondent cannot provide.

Affirmed.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Deborah A. Servitto