

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of MABRY, Minors.

UNPUBLISHED  
October 10, 2013

No. 315503  
Kent Circuit Court  
Family Division  
LC No. 10-053210-NA

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Before: MURRAY, P.J., and DONOFRIO and BORRELLO, JJ.

PER CURIAM.

Respondent-mother appeals as of right the order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g). For the reasons set forth in this opinion, we affirm.

This case commenced in September of 2010, after respondent failed to bring her minor daughter to multiple medical appointments. Prior to September of 2010, respondent had reported having auditory hallucinations and admitted that she was diagnosed with bipolar disorder and schizophrenia. Following a psychiatric assessment, respondent was prescribed medications to address her mental health issues. In February of 2011, the trial court was informed that respondent failed to bring her daughter to medical appointments. Additionally, testimony presented to the trial court revealed that respondent was not taking her prescribed medications to treat her mental health issues. Thus, the trial court removed the children from respondent and placed them in foster care after respondent failed to take one of her children to their medical appointment and stopped taking her medications. Reunification continued to be the goal until petitioner filed a January 31, 2013 termination petition. After a March 6, 2013 termination hearing, the trial court terminated respondent's parental rights to the children.<sup>1</sup>

“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.*

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<sup>1</sup> The trial court also terminated the father’s parental rights to the children, but the father is not a party to this appeal.

The record supports the trial court's findings that respondent was not able to provide proper care and custody of the children. The case commenced after respondent failed to take her daughter to multiple medical appointments, and the children were later removed after respondent missed yet another medical appointment. The record establishes that respondent failed to attend a number of her children's medical appointments after they were removed from her care, despite being instructed to attend these appointments. Respondent was referred to services through the Asthma Network for her son, but respondent declined to participate in this service. At the termination hearing, the children's caseworker testified that respondent was not able to consistently meet the children's medical needs. The record also supports that respondent did not consistently fill her prescriptions or take her own medications. Respondent missed multiple psychiatric appointments and counseling sessions, and did not attend any counseling during the six months before the termination hearing. Respondent also missed numerous parenting times throughout the case; and the children's caseworkers testified that respondent had a tendency to withdraw and disengage during portions of her parenting times. The children's caseworker characterized respondent's compliance with services as "poor," and the trial court found that respondent demonstrated virtually no progress during the 2-1/2 year case. On the record before us, the trial court's finding that respondent was unable to provide proper care and custody to the children and was not likely to be able to do so within a reasonable time, MCL 712A.19b(3)(g), does not leave us with "a definite and firm conviction that a mistake has been made." *In re Hudson*, 294 Mich App at 264.

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 ground for termination. *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)(c)(i) (conditions of adjudication continue to exist) constituted an additional ground for termination.

Furthermore, we do not find that the trial court clearly erred by determining that termination of respondent's parental rights was in the children's best interests. At the time of termination, the case had been pending for approximately 2-1/2 years and the children had been in foster care for more than two years. As discussed above, the record supported that respondent failed to comply with services or demonstrate progress during the case. The children's caseworker testified, and the trial court found, that the children were both young and in need of permanency. The caseworker testified that the children were "doing very well" in their foster home and had a strong possibility of being adopted given their age and lack of "overwhelming issues." Accordingly, the trial court's best interest determination 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 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 the uncertain potential for success and extended duration of respondent's reunification plan.")

Respondent also argues on appeal that petitioner failed to make reasonable reunification efforts. "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. This Court reviews the trial court's findings of

fact, including whether petitioner made reasonable efforts to reunify the family, for clear error. *In re Rood*, 483 Mich 73, 90; 763 NW2d 587 (2009). Here, the record clearly establishes that respondent received ample reunification services, including psychiatric assessments and services, counseling, drug screens, medical education, various parenting classes, supervised parenting time, housing assistance, bus tickets, and case management. Thus, we do not find that the trial court clearly erred by finding that respondent received reasonable reunification efforts. *Id.* Moreover, 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). Here, the record supported that although petitioner provided respondent with ample services, respondent failed to participate in most of those services and, thus, failed to satisfy her “commensurate responsibility . . . to participate in the services that are offered.” *Id.*

Affirmed.

/s/ Christopher M. Murray  
/s/ Pat M. Donofrio  
/s/ Stephen L. Borrello