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STATE OF MICHIGAN

COURT OF APPEALS

In re A R HOWARD, Minor.

UNPUBLISHED
June 25, 2020

No. 351417
Monroe Circuit Court
Family Division
LC No. 17-024188-NA

Before: TUKEL, P.J., and SERVITTO and BECKERING, JJ.

PER CURIAM.

Respondent-father appeals as of right the trial court's order terminating his parental rights to the minor child ARH, under MCL 712A.19b(3)(c)(*i*) (conditions leading to adjudication continue to exist without reasonable likelihood of being rectified), MCL 712A.19b(3)(h) (parent's imprisonment results in failure to provide proper care and custody for over two years), and MCL 712A.19b(3)(j) (reasonable likelihood that child will be harmed if returned to parent). We affirm.

I. STATEMENT OF FACTS

Respondent is currently incarcerated in a Tennessee prison. This case arises out of an allegation that respondent's sister, with whom the child had been placed, was unable to provide proper care and custody of ARH. Respondent had been convicted of second-degree murder and voluntary manslaughter in Tennessee when ARH was a few months old, and later sentenced to 20 years' imprisonment and five years' imprisonment, respectively, for each count. ARH was initially cared for by her mother in Tennessee, but later released ARH into the care and custody of respondent's sister by way of a power of attorney, and ARH moved to Michigan to live with respondent's sister.

After ARH had been living with respondent's sister for several months, respondent's sister was incarcerated for possession of a controlled substance, and CPS was able to substantiate allegations against her of improper supervision and physical neglect of ARH. DHHS filed a petition seeking temporary custody of ARH for failure to provide proper care and custody. ARH was removed from respondent's sister's home and placed in the care of DHHS.

During the approximately two-and-a-half years of child custody proceedings, the search was on to find proper care and custody for ARH. Respondent was incarcerated in several

Tennessee prisons throughout that time period that were often subject to "lockdowns," rendering respondent unavailable for court proceedings. Nevertheless, arrangements were pursued with the prisons to allow respondent to attend each hearing, and respondent was ultimately able to attend the vast majority of proceedings. Respondent was present when DHHS created a service plan, requiring respondent to initiate biweekly contact with DHHS, communicate with ARH, attend any relevant parenting programs in the prison, and create a written plan for ARH's care, among other obligations. Additionally, although the receipt of mail in the prisons was often significantly delayed, DHHS sent respondent monthly correspondence that included a copy of his service plan, relevant new court documents, an update letter on ARH, as well as self-addressed, stamped envelopes for return correspondence.

Before DHHS filed a petition for permanent custody of ARH, DHHS extensively sought out possible relative placements for ARH. Respondent repeatedly indicated that he was attempting to find additional relatives to contact, but he relied primarily on his sister as a means of communicating with his family. While respondent suggested to DHHS that ARH could be returned to his sister after she was released from her incarceration, a DHHS investigation indicated that respondent's sister was not a viable option on the basis of her substance abuse concerns and a failed home study. DHHS filed a supplemental petition seeking termination of respondent's and ARH's mother's parental rights.[1] After respondent indicated possible Native American heritage, DHHS sent appropriate notices under the Indian Child Welfare Act (ICWA), 25 USC 1901 *et seq*., and later received responses indicating that ARH was not considered eligible for membership as a Native American child in the identified tribes and bands.

After a bench trial, the trial court found clear and convincing evidence to establish statutory grounds to terminate respondent's parental rights to the child under MCL 712A.19b(3)(c)(*i*), MCL 712A.19b(3)(h), and MCL 712A.19b(3)(j). The trial court also found that it was in ARH's best interests to terminate respondent's parental rights because respondent failed to foster or maintain a relationship with ARH during his incarceration and was not set to be released from prison until after ARH reached the age of majority. The trial court issued a corresponding order terminating respondent's parental rights to ARH.

II. DISCUSSION

Respondent contends on appeal that the trial court clearly erred in concluding that DHHS made reasonable efforts to preserve the family because DHHS did not use reasonable efforts to communicate with him and because there was insufficient evidence for the trial court to find statutory grounds for termination. We will address each argument in turn.

A. REASONABLE EFFORTS

Respondent asserts that the trial court erred when it terminated his parental rights to ARH because DHHS did not engage in reasonable efforts. Specifically, respondent contends that DHHS failed to engage him in the child protection proceedings and in developing his service plan.

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[1] The trial court terminated ARH's mother's parental rights in the same order in which it terminated respondent's parental rights. ARH's mother has not appealed.

Respondent also claims that DHHS failed to satisfy its obligation to investigate and consider potential relative placement options.

To preserve a challenge to the adequacy of services provided to a respondent, the respondent must object to, or otherwise indicate, that the provided services were somehow inadequate when the services were offered. *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). Our Supreme Court has expressed skepticism "of this categorical rule," but has not overturned it. See *In re Hicks/Brown*, 500 Mich 79, 88-89; 893 NW2d 637 (2017). Nevertheless, "[t]his Court may overlook preservation requirements if the failure to consider the issue would result in manifest injustice[.]" *Nuculovic v Hill*, 287 Mich App 58, 63; 783 NW2d 124 (2010). Respondent did not challenge the adequacy of the services to be provided when the service plan was adopted, nor did he object to the services offered, or the means of communication with DHHS throughout the proceedings. Because respondent failed to timely challenge the adequacy of the services provided by DHHS, this issue is unpreserved and is reviewed for plain error affecting substantial rights. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). "To avoid forfeiture under the plain error rule, three requirements must be met: 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). "Generally, an error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings." *In re Utrera*, 281 Mich App at 9.

Absent circumstances not present here, DHHS "has an affirmative duty to make reasonable efforts to reunify a family before seeking termination of parental rights." *In re Hicks/Brown*, 500 Mich at 85. "The state is not relieved of its duties to engage an absent parent merely because that parent is incarcerated." *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). When DHHS and the trial court fail to adhere to court rules and statutes, a respondent is "not afforded a meaningful and adequate opportunity to participate." *Id*. If DHHS does not engage a respondent in child protection proceedings, "the record remains entirely devoid of any evidence concerning respondent's ability to care for his child in the near future, either personally or through placement with relatives." *In re DMK*, 289 Mich App 246, 248; 796 NW2d 129 (2010).

Part of this requirement to make reasonable efforts is the creation of a service plan, which outlines the steps that DHHS and respondent "will take to rectify the issues that led to court involvement and to achieve reunification." *Id*. at 85-86, citing MCL 712A.18f(3)(d) (stating that the service plan shall include a "[s]chedule of services to be provided to the parent . . . to facilitate the child's return to his or her home"). A respondent is obliged to engage in and benefit from the service plan to avoid termination of parental rights: "While [DHHS] 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 at 248; see also *In re TK*, 306 Mich App at 711 ("Not only must respondent cooperate and participate in the services, she must benefit from them.") When challenging the services offered by DHHS, a respondent must establish that he or she would have fared better if other services had been offered. See *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005).

Review of the record reveals that the trial court made sufficient and overt findings to support its determination that DHHS made the required reasonable efforts at reunification and in

support of the permanency plan while addressing respondent's incarcerated status. DHHS was found to have made reasonable efforts by developing a service plan, interviewing suitable relatives for placement, providing foster care case management, and offering case management services. "Trial courts are in the best position, in the first instance, to determine whether the steps taken by [DHHS] in individual cases are reasonable." *In re Hicks/Brown*, 500 Mich at 88 n 6.

Respondent first alleges that DHHS did not engage in reasonable efforts because DHHS generally failed to adequately communicate with him. Respondent admits in his brief on appeal—as he did at the bench trial—that he regularly received a monthly mailing from DHHS that included an update letter on ARH, a copy of his service plan, the court materials from the previous hearing, as well as a stamped and addressed return envelope. Respondent also notes testimony from foster-care workers indicating their repeated efforts to call respondent's prison facility to request records, or otherwise facilitate contact with respondent. However, respondent argues that he nevertheless did not "speak with anyone from [DHHS] for two years" and often did not receive the current DHHS report or the copy of his service plan in time for the upcoming hearings, "making it impossible for him to participate in his case." Respondent additionally alleges that he did not receive notice before hearings on several occasions.

Our Michigan Supreme Court set forth in *In re Mason*, 486 Mich at 154, the requirement under MCR 2.004 to ensure that a respondent was offered " 'the opportunity to participate in' each proceeding in a child protective action." *In re Mason*, 486 Mich at 154. Failure to include a respondent affects "both his ability to participate and the information available for the court's consideration." *Id*. at 155.M "MCR 2.004 requires the court and the petitioning party to arrange for telephonic communication with incarcerated parents whose children are the subject of child protective actions." *Id*. at 154, citing MCR 2.004(A) to (C). The rule is designed to safeguard a respondent's right to "adequate notice" as well as "an opportunity to respond and to participate" in the proceedings, "in part by determining how the incarcerated party can communicate with the court" and "whether the party needs special assistance for such communication, including participation in additional phone calls." *In re Mason*, 486 Mich at 152-153, citing MCR 2.004(E)(1) and (4).

Contrary to respondent's assertion, he was offered the opportunity to participate in the proceedings. Respondent offered testimony at various hearings that mail at the prison was significantly delayed, resulting in his receipt of materials from DHHS (including notice of the subsequent hearing) often after the hearing with which they were meant to relate. However, respondent nonetheless was able to attend the vast majority of the trial court proceedings. Respondent is correct that he was not present for the first preliminary hearing on the initial petition for temporary custody of ARH. Yet the trial court adjourned this hearing twice to allow respondent to attend by telephone or Polycom and be appointed an attorney. While respondent was not present for four dispositional review hearings, these hearings were generally scattered throughout the two-and-a-half-year duration of the proceedings: on December 20, 2017; March 14, 2018; March 18, 2019, and July 16, 2019. Either the trial court or counsel for respondent noted at each hearing that earlier arrangements were made to allow respondent to attend the hearing by telephone and that his absence resulted from a prison lockdown or an unanswered call to the prison's telephone. On two instances, the trial court offered to adjourn the hearings because it related to respondent or to have another review before the next scheduled date if requested or necessary for respondent. Furthermore, after the supplemental petition for termination of respondent's parental rights was

filed, respondent was able to attend both pretrial hearings and both days of the bench trial regarding the petition.

Consequently, the record demonstrates that respondent was provided telephonic communication for every stage of the proceedings. While he was unable to attend several dispositional review hearings dispersed throughout the proceedings, arrangements were made by DHHS to allow his attendance. Respondent was able to listen, respond, and participate in the proceedings at each critical stage of the case, without major gaps over the duration of the two-and-a-half years in which the case progressed. Additionally, respondent's own failure to communicate with DHHS—contrary to the terms of his service plan—was a frequent topic at the hearings respondent attended before the supplemental petition for termination of his parental rights was filed. To the extent respondent argues he was unaware that he was deemed noncompliant with his service plan for failure to initiate contact with DHHS, or that ARH was no longer cared for by his sister, his claim is without merit.

Respondent also argues that the trial court erred in finding DHHS made reasonable efforts because he was not provided the opportunity to develop his service plan. The record does not support respondent's contention. Respondent attended, by telephone, the hearing when his service plan was adopted. In response to concerns expressed by respondent's counsel, potentially overbroad language in the proposed service plan regarding respondent's participation in institutional programs at the correctional facility was amended by the trial court to indicate requisite participation in appropriate and applicable programs if available. Respondent did not object. Additionally, respondent's counsel questioned whether respondent needed to create a written plan for care of ARH before his release, but respondent did not object to the continued inclusion of this provision in the service plan. Ultimately, while respondent later testified regarding the lack of available programs in the prison facility, he did not object at any point to the service plan's requirement for him to initiate communication with ARH and DHHS.

After the service plan was adopted, respondent received a copy of the service plan in every monthly mailing sent by DHHS. Testimony by the foster-care worker indicated that mailings with a copy of the service plan were sent monthly. Further, respondent admitted to having received all mail sent by DHHS, but he testified that he often received mail three to four weeks after it was sent. However, because respondent's service plan did not substantially change throughout the proceedings, respondent was not kept from having productive discussions with his counsel or meaningful participation in court proceedings by the delay in receipt of these mailings.

Furthermore, respondent explicitly explained to the trial court why he did not participate in the service plan. At the bench trial, respondent admitted he received all correspondence sent from DHHS and that these materials always included a self-addressed envelope for returns. Respondent also acknowledged that he had been previously questioned by a foster-care worker as to why he had not returned the required correspondence. Respondent explained that he did not return the materials because "I didn't think it mattered because nothin' has changed at all. . . . They ain't got no classes, there's nothin' I can do." Instead, respondent clarified that he focused on his efforts to win his criminal appeal to allow him to leave the prison and care for ARH.

Although respondent was effectively impeded in his ability to participate in particular services initially considered, such as relevant parenting programs, respondent nevertheless elected

not to engage in those elements of the service plan in which he could participate, such as writing letters to ARH and DHHS, or drafting a written plan for ARH's care. Respondent also admitted at the bench trial that he was not deprived of any services: When asked whether he believed there was something DHHS had not done to assist, respondent stated that DHHS "tried to do everything they can." Therefore, the record demonstrates that DHHS tailored the service plan to respondent on the basis of his limited access as an inmate in a Tennessee prison, but he failed to participate in the services in which he could have participated and ultimately did not benefit from these services. This failure is dispositive. *In re Frey*, 297 Mich App at 248.

Respondent next argues that DHHS did not pursue reasonable efforts to finalize the permanency plan because he was not provided the opportunity to participate in searching for fit and willing relatives for ARH's placement. Respondent claims that, once he was belatedly informed of the need for relative contacts, his suggestion for a possible relative placement (i.e., his sister) was only given cursory consideration by DHHS and improperly barred from inclusion in the list of possible candidates solely on the basis of her criminal record. Yet the record clearly contradicts respondent's contention. The foster-care worker testified that DHHS's monthly letters to respondent always included a request for names of additional relatives. Respondent was present at several dispositional review meetings in which DHHS detailed their efforts to find other options for relative placement, and respondent stated at several dispositional review hearings that he was attempting to find potential relative placements through his sister.

Nor does the record indicate that respondent's sister was excluded because of her criminal record. Indeed, respondent's sister was in jail during a portion of the proceedings. After she was released, DHHS expressed an initial hesitancy to pursue respondent's sister as a possible placement because of her substance abuse in the home when caring for ARH, as well as her criminal history, but eventually engaged in several conversations with her to evaluate her interest and initiate a home study after other relative leads proved unsuccessful. Respondent's sister was excluded as a possibility on the basis of a failed home study, her continued probation and intensive outpatient treatment, relapses with substance abuse, and the limited time frame in which to ensure her sobriety and compliance with the terms of her probation. Ultimately, DHHS reached out to maternal relatives in Tennessee, investigated obtaining contact information of relatives from family acquaintances in Michigan, and reconsidered respondent's sister. DHHS satisfied its obligation to investigate and considered relative placement options on the basis of information provided from respondent and other sources.

Respondent repeatedly references in his brief on appeal the claim that DHHS failed to question him regarding his possible Native American heritage until July 2019, and vaguely asserts that this case "is about [ICWA]" without further explanation. Respondent does not offer supporting authority or legal analysis. As a result, his argument is abandoned. See *Houghton ex rel Johnson v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003) ("An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for [appellant's] claims, nor may [appellant] give issues cursory treatment with little or no citation of supporting authority.") (citations omitted). However, even were this Court to consider respondent's argument, his claim has no merit. The trial court received responses *before termination* from the United States Department of the Interior, the Black Feet Tribe of Montana Cherokee, and the Eastern Band of Cherokee Indians indicating that ARH was not considered eligible for membership as a Native American child in the tribes or bands identified in the ICWA

notices sent by DHHS. ICWA thus did not apply to the child custody proceedings because ARH was not considered an Indian child. *In re Morris*, 491 Mich 81, 123; 815 NW2d 62 (2012).

From this record, we conclude that DHHS fulfilled its obligation to make reasonable efforts. Respondent was afforded an opportunity to meaningfully participate in the proceedings. The trial court did not "engage[] in fact-finding . . . with holes in the record," nor did it relieve DHHS "of its burden to prove by clear and convincing evidence that grounds for termination were present." *In re Mason*, 486 Mich at 166 (citation omitted).

B. STATUTORY GROUNDS FOR TERMINATION

Respondent argues the trial court clearly erred when it terminated his parental rights to ARH because DHHS failed to present clear and convincing evidence of a statutory ground for termination. We disagree.

This Court reviews "for clear error a trial court's factual findings as well as its ultimate determination that a statutory ground for termination of parental rights has been proved by clear and convincing evidence." *In re Mason*, 486 Mich at 152. After a trial court finds that a statutory basis for termination exists by clear and convincing evidence and that a preponderance of the evidence shows that "termination of parental rights is in the best interests of a child, the court must terminate the respondent's parental rights to that child." *In re Schadler*, 315 Mich App 406, 408; 890 NW2d 676 (2016). A trial court's decision "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 had been made." *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

Respondent challenges the trial court's finding of grounds for termination under MCL 712A.19b(3)(c)(*i*). Respondent also contends the trial court could not have found that respondent was financially able to contribute to the care and custody of ARH as necessary for a finding of statutory grounds under MCL 712A.19b(3)(g). However, the trial court explicitly determined there was insufficient evidence of respondent's financial information to determine whether he was financially able to provide proper care and custody under MCL 712A.19b(3)(g), and found an analysis under MCL 712A.19b(3)(g) was unnecessary because grounds to terminate were established under MCL 712A.19b(3)(c)(*i*). Because the trial court did not find grounds to terminate under MCL 712A.19b(3)(g), this Court will not address this portion of respondent's argument.

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). Respondent's parental rights were terminated under MCL 712A.19b(3)(c)(*i*), MCL 712A.19b(3)(h), and MCL 712A.19b(3)(j), which state:

> (3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:
>
> * * *

> (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:
>
> > (*i*) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.
>
> * * *
>
> (h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.
>
> * * *
>
> (j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

It is undisputed that the child protection proceedings exceeded the 182 day-threshold. Instead, respondent's claim of insufficient evidence regarding MCL 712A.19b(3)(c)(*i*) stems from two separate contentions. First, respondent claims that he initially provided proper care and custody during his incarceration by allowing ARH to be in the care of his sister, and by consenting to allow ARH's mother to provide respondent's sister with power of attorney over ARH. Because DHHS allegedly failed to inform respondent that ARH was removed from his sister's care, respondent contends he was unaware that ARH was deprived of proper care and custody. However, as stated previously, respondent became aware of ARH's removal from his sister's care well before DHHS instigated a separate telephone contact with him outside of the court hearings in 2019. While respondent was not present for the first preliminary hearing on the initial petition for temporary custody of ARH, the hearing was adjourned twice to allow him to attend and to ensure receipt of the petition stating the reasons why ARH was removed from his sister's care. Respondent participated in a substantial majority of the proceedings thereafter, and at all critical stages of the case. There is no question that respondent was aware that ARH was no longer in his sister's care when participating in the proceedings.

Furthermore, while respondent and ARH's mother did arrange for ARH to live with respondent's sister during respondent's incarceration, such efforts were insufficient to provide proper care and custody. An incarcerated parent can "fulfill his duty to provide proper care and custody in the future by voluntarily granting legal custody to his relatives during his remaining term of incarceration." *In re Mason*, 486 Mich at 163 (emphasis added). However, evidence presented suggested that under application of either Tennessee law, or Michigan law, the power of attorney executed by ARH's mother did not grant respondent's sister legal custody of ARH at the time ARH was removed from the home. Furthermore, regardless of whether the power of attorney afforded respondent's sister legal custody of ARH, respondent's sister was found to be unfit when

ARH was removed from her care as a result of her incarceration, violation of probation, loss of housing, substance use in the home, and failure to remove ARH from a home with domestic violence. The trial court did not err in finding that respondent failed to make proper arrangements for ARH's care when ARH was removed because ARH was in an unsuitable and unstable home environment, leading to respondent's adjudication.

For similar reasons, respondent's second contention regarding MCL 712A.19b(3)(c)(*i*) is without merit. Respondent asserts that once he was aware of ARH's removal, he attempted to again provide proper care and custody by requesting DHHS place ARH in the care of his sister. According to respondent, DHHS improperly disregarded his suggestion for placement, and the trial court erroneously determined that respondent's plan for ARH was insufficient because it was not put in writing when respondent was unaware of the need to do so. Respondent's claim mischaracterizes the record. As discussed, respondent's sister was deemed to be an inappropriate placement after an investigation by DHHS, and was deemed so for reasons beyond her criminal record. During the course of the proceedings, respondent failed to create a written plan for care of ARH, despite having signed a copy of his service plan noting this requirement. Furthermore, respondent did not take the necessary steps to relinquish legal custody of ARH during his incarceration: while testifying at the bench trial that he wished for ARH to be placed with his sister, respondent admitted he was unaware of whether requisite documents for establishing a guardianship were filed. Respondent also failed to find or suggest a suitable alternative relative for placement while DHHS investigated potential relative options. Because respondent did not voluntarily grant legal custody to a fit and appropriate relative for the remainder of his incarceration, despite the two-year duration of these child protection proceedings, the trial court did not err in determining that there was no reasonable likelihood of rectification. There was sufficient evidence for termination under MCL 712A.19b(3)(c)(*i*).

Nor did respondent otherwise demonstrate his ability to provide proper care and custody for ARH while incarcerated through compliance with his service plan. "[A] parent's failure to comply with the parent-agency agreement is evidence of a parent's failure to provide proper care and custody for the child." *In re JK*, 468 Mich at 214. While acknowledging the limitations created by his out-of-state incarceration, the trial court found that respondent failed to send regular letters or to provide a written plan for ARH's care. The trial court further noted respondent's acknowledgment that, despite DHHS's efforts, he was unable to comply with the service plan. Respondent's failure to minimally comply with the terms of his service plan that were capable of being addressed during his incarceration supports the trial court's finding that respondent did not provide care and custody of ARH, and was unlikely to do so in the future.

Respondent's failure to voluntary accede legal custody to a fit relative, as well as his noncompliance with his service plan, additionally supports the trial court's finding of statutory grounds under MCL 712A.19b(3)(h). The trial court determined, on the basis of respondent's testimony, that his earliest release date was six years in the future and that respondent "acknowledges there is no reasonable expectation he can provide a home in the next two years" barring success on his habeas corpus petition. Because respondent would be imprisoned for such a period that ARH would be deprived of a normal home for a period exceeding two years, and there was no reasonable expectation that respondent could provide proper care and custody in that timeframe, the trial court's findings also justify termination under MCL 712A.19b(3)(h).

Because only one statutory ground need be established to terminate respondent's parental rights, see *In re VanDalen*, 293 Mich App at 139, and there was clear and convincing evidence for the trial court to terminate respondent's parental rights under MCL 712A.19b(3)(c)(*i*) and MCL 712A.19b(3)(h), we need not address the court's finding of clear and convincing evidence under yet a third ground, MCL 712A.19b(3)(j).

We conclude that the trial court did not clearly err by finding that DHHS engaged in reasonable efforts toward reunification of ARH with respondent, and engaged in reasonable efforts in support of the permanency plan. And because there was clear and convincing evidence for the trial court to terminate respondent's parental rights under at least one statutory ground, and respondent does not dispute that termination was in ARH's best interests, we affirm the trial court's order terminating respondent's parental rights to the minor child.

Affirmed.

/s/ Jonathan Tukel
/s/ Deborah A. Servitto
/s/ Jane M. Beckering