STATE OF MICHIGAN

COURT OF APPEALS

In re GARRETT/SPEARS/GARRETT-ROBERTSON, Minors.

UNPUBLISHED
October 29, 2020

No. 352756
Wayne Circuit Court
Family Division
LC No. 16-523079-NA

Before: METER, P.J., and SHAPIRO and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to her children BS, JG, and ZG under MCL 712A.19b(3)(c)(*i*) (conditions that led to adjudication continue to exist), (c)(*ii*) (other conditions exist that cause the child to come within the court's jurisdiction), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood that the child will be harmed if returned to parent). We affirm.

In July 2016, petitioner, the Department of Health and Human Services (DHHS), filed a petition for the removal of BS and JG from respondent because of her unfit home, medical and physical neglect of the children, and prior Children's Protective Services (CPS) history. Respondent had previously admitted to feeling overwhelmed, incapable of providing for her children, and suicidal. The children were subsequently removed from respondent's care. The trial court exercised jurisdiction over the children and respondent entered into a parent-agency treatment plan. In July 2017, ZG was born. Because respondent had not completed the parent-agency treatment plan and did not have suitable housing, ZG was removed from respondent's care and the trial court exercised jurisdiction over ZG. Throughout the proceedings, respondent lived in multiple homes. However, in October 2018, the children were returned to respondent's care because she followed the parent-agency treatment plan and had obtained suitable housing. As part of the reunification, respondent was to engage in services through the family reunification program (FRP). Soon after the children's return, respondent was evicted from her home. After that period, respondent relocated numerous times. In March 2019, the children were again removed from respondent's care because respondent did not have housing, failed to maintain consistent contact with her case workers, and failed to cooperate with the terms of the reunification. Respondent failed to maintain housing throughout the remainder of the proceedings, and the court terminated her parental rights to the children.

On appeal, respondent argues that DHHS failed to make reasonable efforts to reunify her with her children because DHHS failed to assist with housing. We disagree.

In order to preserve the issue of whether reasonable efforts for reunification were made, a respondent must raise the issue at the time the services are offered. *In re Frey*, 297 Mich App 242, 247; 824 NW2d 569 (2012). The issue is not preserved when respondent fails to timely "object or indicate that the services provided to [respondent] were somehow inadequate[.]" *Id*. In the lower court proceedings, respondent did not raise the issue of reasonable efforts or assert that DHHS had failed to provide her adequate assistance to obtain housing. Therefore, this issue is not preserved for appellate review.

Generally, this Court reviews for clear error a trial court's finding that the petitioner engaged in reasonable efforts to reunify a child with his or her parent. *In re Smith*, 324 Mich App 28, 43; 919 NW2d 427 (2018). "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 Smith*, 486 Mich 142, 152; 782 NW2d 747 (2010) (citations and quotation marks omitted). However, unpreserved claims are reviewed for plain error affecting substantial rights. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). "Generally, an error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings." *Id*. at 9.

"In order to terminate parental rights, the court must find that at least one of the statutory grounds set forth in MCL 712A.19b has been met by clear and convincing evidence." *In re Fried*, 266 Mich App 535, 540-541; 702 NW2d 192 (2005). "Once a ground for termination is established, the court must order termination of parental rights unless the court finds that termination is clearly not in the child's best interest." *Id*. at 541. In general, "the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan." *Id*. at 542, citing MCL 712A.18f(1), (2), and (4). "The adequacy of the petitioner's efforts to provide services may bear on whether there is sufficient evidence to terminate a parent's rights." *In re Rood*, 483 Mich 73, 89; 763 NW2d 587 (2009). "While the [DHHS] has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of [the] respondent[] to participate in the services that are offered." *In re Frey*, 297 Mich App at 248.

The sole issue on appeal is whether DHHS made reasonable efforts to reunify respondent with her children. Specifically, respondent contends that DHHS failed to provide respondent with assistance in obtaining housing. Respondent's argument is not supported by the record. Over a period of more than three years, DHHS provided respondent with various services, including assistance with housing. After the children were initially removed from respondent's care in July 2016, a CPS investigator provided respondent with resources for low-income housing. When the court exercised jurisdiction over BS and JG in July 2016, DHHS offered respondent multiple services including parenting classes, infant mental health (IMH) services, individual therapy, a psychological evaluation, and visitation with her children. Respondent was also required to maintain stable employment and housing.

At the December 5, 2016 dispositional review hearing, the case worker reported that respondent had been referred to all of the services ordered, and she was partially compliant.

Respondent had participated in parenting classes but was terminated from the program. Respondent had only attended approximately half of the parenting visits. However, respondent was attending individual therapy, maintaining regular contact with her case worker, and maintaining employment. Respondent had not obtained suitable housing at that time and was living with friends. However, respondent's case worker had provided her resources for Section 8 housing, and respondent was actively looking for housing. After ZG was born, she was removed from respondent's care because respondent was not fully compliant with her parent-agency treatment plan. In particular, respondent had yet to obtain suitable, stable housing. During the proceedings, respondent also received a parent partner because the trial court determined that respondent needed additional assistance. The parent partner provided respondent with assistance obtaining whatever kind of resources she needed.

Respondent proved capable of engaging in the services offered. After becoming compliant with her parent-agency treatment plan and obtaining suitable housing, the children were returned to her care in October 2018. At that time, respondent had completed the court ordered services, she was employed, and she had obtained suitable housing for the children. As part of having the children returned to her care, respondent was ordered to engage in in-home reunification services through the FRP. Respondent was provided the FRP services from October 2018 to February 2019, which included therapeutic services and assistance with housing and benefits. An FRP worker personally took respondent to apply for a shelter, provided respondent with housing resources, and gave her a list of homes. In June 2019, respondent asked for housing resources, and her case worker provided respondent with those resources. In October 2019, respondent again asked for resources to assist with move-in costs, and her case worker again provided additional resources.

Thus, the record establishes that DHHS provided respondent with numerous resources, including parenting classes, individual therapy, IMH services, FRP services, a parent partner, and visitation with her children. The record further establishes that respondent received housing resources and assistance throughout the proceedings from her case workers and FRP workers.

Although DHHS had a responsibility to provide resources, and did in fact provide resources, respondent had a "commensurate responsibility" to actively participate in the services offered. *In re Frey*, 297 Mich App at 248. Throughout the proceedings, respondent was often uncooperative, refused assistance when offered resources, and failed to inform workers where she was living, which in turn, prevented the workers from being able to assist her. Respondent resided in numerous homes throughout the course of the proceedings. On multiple occasions respondent refused to allow workers access to the home she was living in or to see her children, and she often failed to notify the agency when she relocated. When the FRP services ended in February 2019, respondent was offered additional in-home services, including services to help with obtaining suitable housing, but she refused the assistance. At a March 2019 hearing, respondent refused to provide the address of her current home or allow workers to assess the home because she knew it was not suitable. In addition, respondent only attended one visitation between March 20, 2019, and the time of the evidentiary hearing in October 2019, when the court found grounds to terminate respondent's parental rights. Respondent also failed to appear at the termination hearing, contending that she did not know the date of the hearing. Additionally, respondent never provided proof of income. Accordingly, because DHHS made reasonable efforts to reunify respondent with her children, the trial court did not err in terminating respondent's parental rights to her children.

Affirmed.

/s/ Patrick M. Meter
/s/ Douglas B. Shapiro
/s/ Michael J. Riordan