

STATE OF MICHIGAN
COURT OF APPEALS

In re J. M. COATES, Minor.

UNPUBLISHED
April 22, 2021

No. 353857
Wayne Circuit Court
Family Division
LC No. 2016-523685-NA

Before: GLEICHER, P.J., and BORRELLO and SWARTZLE, JJ.

PER CURIAM.

The Department of Health Human Services (DHHS) has been providing specialized services to respondent-mother since 2016 in an attempt to retain her children in her care. Respondent did not demonstrate any benefit and her eldest two children were placed in guardianships with relatives. Her youngest son, JMC, was taken into care shortly after his birth and almost two years later, respondent still had not shown any improvement. Accordingly, the court terminated respondent’s parental rights. Respondent appeals the termination of her parental rights to JMC alone. We affirm.

I. BACKGROUND

Respondent is no stranger to the child protective system. The DHHS has been providing services to respondent since October 2016. Despite those services, respondent’s older children (AW and ADW) were removed from her care and placed in relative guardianships. Respondent gave birth to JMC on February 10, 2018. JMC remained in his mother’s care until June 1, 2018, when he was placed in nonrelative foster care because respondent was not in compliance with her parent-agency agreement.

Respondent has borderline intellectual functioning. During these proceedings, the DHHS provided respondent with parenting classes modified to accommodate her special needs. Respondent’s poor attendance led to an early termination from the classes and a second referral. Respondent demonstrated little benefit from the classes. Despite that JMC was respondent’s third child, respondent continued to struggle with basic skills like holding and feeding a baby. Her failure to internalize the lessons taught in the parenting classes was evidenced during supervised parenting time. Respondent played with JMC during sessions, but never brought food or diapers, and never learned to read the child’s cues.

Communication was a major problem for respondent throughout these proceedings as well. When JMC was taken into care, respondent was living in a homeless shelter. She then moved with JMC's father into a relative's home. Respondent believed that JMC's father was holding her back in her attempts to regain custody so she moved to a new homeless shelter. Respondent did not advise the caseworker of her move. As a result, respondent was terminated early from an in-home individual therapy program. Respondent did not have her own phone, but had access to a telephone in the shelter. Even so, respondent often failed to call in to determine if she needed to appear for random drug screens. She missed a majority of these screens.

Respondent claimed to have two jobs, but did not provide proof of income. The DHHS offered to help respondent in finding housing, but the shelter was already providing such assistance.

Ultimately, the caseworker observed JMC pulling farther away from respondent. JMC was distraught during the transition into parenting time and sometimes inconsolable. While respondent loved JMC, JMC was not bonded with his mother. Accordingly, the court permitted the DHHS to move toward termination rather than reunification.

The court terminated respondent's parental rights under MCL 712A.19b(3)(c)(i) (failure to rectify the conditions that led to adjudication), (c)(ii) (failure to rectify new conditions discovered since filing the petition), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood the child would face harm if returned to respondent's care). The court also determined that termination was in JMC's best interests. Respondent appeals.

II. REASONABLE EFFORTS

Respondent contends that the DHHS failed to make reasonable efforts to reunify her with JMC and therefore could not establish statutory grounds for termination. Respondent requested specialized services to accommodate her special needs. The DHHS offered respondent specialized parenting classes and in-home therapy services. The DHHS went out of its way to assist respondent in attending her drug screens, including providing unlimited bus passes and advising respondent that she could take her screens in the same building she attended parenting-time sessions. Respondent never complained that these services were inadequate or requested additional services. Accordingly, respondent failed to preserve her challenge. See *In re Frey*, 297 Mich App 242, 247; 824 NW2d 569 (2012) (quotation marks and citation omitted).

"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). "Reasonable efforts to reunify the child and family must be made in all cases except those involving aggravated circumstances under MCL 712A.19a(2)." *In re Rippey*, 330 Mich App 350, 355; 948 NW2d 131 (2019). "As part of these reasonable efforts, [DHHS] must create a service plan outlining the steps that both it and the parent will take to rectify the issues that led to court involvement and to achieve reunification." *In re Hicks*, 500 Mich 79, 85-86; 893 NW2d 637 (2017). "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 respondents to participate in the services that are offered.” *Frey*, 297 Mich at 248. “Not only must [the] respondent cooperate and participate in the services, she must benefit from them.” *In re TK*, 306 Mich App 698, 711; 859 NW2d 208 (2014).

The DHHS made reasonable efforts to reunite parent and child. Respondent did not benefit from those services, but this was not the fault of the DHHS. Despite receiving various services since October 2016, respondent demonstrated no ability to care for JMC and had not rectified the conditions that led to DHHS involvement. The court did not err in finding grounds for termination.

III. BEST INTERESTS

Respondent further claims the circuit court erroneously determined that termination was in JMC’s best interests. “Once a statutory ground for termination has been proven, the trial court must find that termination is in the child’s best interests before it can terminate parental rights.” *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012), citing MCL 712A.19b(5). “[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence.” *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The court should weigh all the evidence available to it in determining the child’s best interests. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). We review the court’s factual findings in this regard for clear error. *In re Brown/Kindle/Muhammad Minors*, 305 Mich App 623, 637; 853 NW2d 459 (2014).

Factors relevant to the best-interest determination include “the child’s bond to the parent, the parent’s parenting ability, [and] the child’s need for permanency, stability, and finality,” as well as the advantages of the foster home over the child’s home with the parent. *Olive/Metts*, 297 Mich App at 41-42 (cleaned up). “The trial court may also consider a parent’s history of domestic violence, . . . the children’s well-being while in care, and the possibility of adoption.” *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014). Ultimately, “the focus at the best-interest stage [is] on the child, not the parent.” *Moss*, 301 Mich App at 87.

In support of her appellate challenge, respondent emphasizes the bond she shared with JMC. However, the DHHS presented evidence that JMC had no bond with his mother. One clinician reported that respondent was becoming “sort of like a stranger” to the young child. Moreover, respondent was unable to parent JMC even during short, supervised visits and therefore never earned unsupervised visits. Respondent had difficulty multi-tasking during visits and occasionally appeared bored. Caseworkers occasionally had to step in to console or distract JMC during visits. Ultimately, the service providers questioned respondent’s ability to take care of JMC without assistance. JMC had been in care since he was four months old and had developed a strong bond with his foster parents, who expressed interest in adoption. JMC needed permanency, stability, and finality, and respondent demonstrated no ability to provide a safe, stable home for him.

Respondent further contends that the DHHS prevented her from benefitting from services by failing to provide reasonably accommodated services. However, respondent was noncompliant with services designed and provided to accommodate respondent’s special needs. JMC could not

wait indefinitely for respondent to participate and show adequate benefit. Accordingly, the circuit court did not err in finding termination to be in JMC's best interests.

We affirm.

/s/ Elizabeth L. Gleicher

/s/ Stephen L. Borrello

/s/ Brock A. Swartzle