STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of A. R. AMORMINO, Minor.

UNPUBLISHED
October 29, 2013

No. 314406
Ogemaw Circuit Court
Family Division
LC No. 09-014087-NA

Before: SERVITTO, P.J., and WHITBECK and OWENS, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order terminating her parental rights to her minor child pursuant to MCL 712A.19b(3)(*l*). (The parent's rights to another child were terminated as a result of proceedings under MCL 712A.2(b)).[1] We affirm.

Respondent-mother first argues that the trial court prematurely terminated her parental rights to the minor child because she was not provided with adequate services for reunification. We disagree. We review de novo whether a respondent's rights were violated through the lack of a case service plan. See *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009).

"'Reasonable efforts to reunify the child and family must be made in *all* cases' except those involving aggravated circumstances . . . ." *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010), quoting MCL 712A.19a(2) (emphasis in *In re Mason*). One of the statutorily recognized exceptions (aggravating circumstances, in the words of *In re Mason*) is where "[t]he parent has had rights to the child's siblings involuntarily terminated." MCL 712A.19a(2)(c); see also *In re Smith*, 291 Mich App 621, 623; 805 NW2d 234 (2011) ("Pursuant to MCL 712A.19a(2)(c), the prior involuntary termination of parental rights to a child's sibling is a circumstance under which reasonable efforts to reunite the child and family need not be made.").

It is undisputed that on or about March 7, 2011, respondent-mother had her parental rights to a sibling of the child in issue involuntarily terminated.[2] Moreover, "the petitioner 'is

[1] The order terminated respondent-father's parental rights to the minor child as well. He has not appealed.

[2] Affirmed in *In re VJM Amormino*, unpublished opinion per curiam of the Court of Appeals, issued November 15, 2011 (Docket Nos. 303172, 303216).

not required to provide reunification services when termination of parental rights is the agency's goal,'" as was the case here. *In re Moss Minors*, 301 Mich App 76, ___; ___ NW2d ___ (Docket No. 311610, released May 9, 2013),[3] slip op at p 7, quoting *In re HRC*, 286 Mich App at 463. Thus, petitioner was not obligated to provide respondent-mother with reasonable efforts for reunification once it filed the instant petition seeking termination.

Next, respondent-mother argues that the trial court erred in finding that termination of her parental rights was in the minor child's best interests. MCL 712A.19b(5) provides that "[i]f the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." Courts must apply the preponderance of the evidence standard in determining whether termination of parental rights is in the child's best interests. *In re Moss Minors*, 301 Mich App 76; slip op at p 6. We review for clear error a trial court's finding that termination of parental rights is in a child's best interests. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

In its written opinion, the trial court explained that termination of respondent-mother's parental rights was in the child's best interests because: the child could be adopted into the same home as two of the child's siblings; respondent-mother has a continuing problem with marijuana, to the extent that she even used marijuana during pregnancy; respondent-mother fails to regularly take her prescription medications for her mental illnesses;[4] respondent-mother failed to benefit from petitioner's services before the birth of the child in issue; and respondent-mother currently lives with a man with three felony drug convictions.

The child at issue tested positive for over 400 nanograms of THC at birth. Respondent-mother justified her use of marijuana during the pregnancy by asserting that she had a medical marijuana card. However, because a registry identification card issued before April 1, 2013, was valid for only one year, see MCL 333.26426(e), it is apparent that any use of marijuana by

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[3] Lv den ___ Mich ___; ___ NW2d ___ (Docket No. 147519, decided September 6, 2013).

[4] In the prior appeal involving the termination of respondent-mother's parental rights to another child, see n 2, *supra*, the Court also referenced her failure to take her medications:

> She also failed to consistently take her psychiatric medications and acknowledged that it affected her ability to parent. [Respondent-mother] indicated that she stopped taking the medications because she did not have the $4 to $6 to pay her co-payment, although she spent money on cigarettes, marijuana and fish for aquariums. It was recommended by a psychological evaluator that she contact a facility for medication stabilization, but [Respondent-mother] continued to fail to take her medications consistently . . . . [*In re VJM Amormino*, unpublished opinion per curiam of the Court of Appeals, issued November 15, 2011 (Docket Nos. 303172, 303216), at p 4.]

respondent-mother during the pregnancy on her expired medical marijuana card was not protected by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq*.[5]

A Department of Human Services (DHS) foster-care worker testified that respondent-mother reported discontinuing her medications prescribed for mental illness due to the potential harm to the fetus. Apparently, she did not make the same calculation with respect to the consumption of marijuana. Further, even though DHS foster-care worker testified that he advised respondent-mother not to continue using marijuana during her pregnancy because of the adverse impact it was likely to have on maintaining her parental rights, respondent-mother did not do so. Aggravating to the drug concern is respondent-mother's association with a man who has three drug-related felony convictions. For these reasons alone, the trial court did not clearly err in finding that termination of respondent-mother's parental rights was in the child's best interests.

Affirmed.

/s/ Deborah A. Servitto
/s/ William C. Whitbeck
/s/ Donald S. Owens

[5] 2012 PA 514, effective April 1, 2013, amended MCL 333.26426(e) to provide that a registry identification card expires two years after the date of issuance.