STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of LESLEY MAXCY, JORDAN MAXCY, ALEXANDRIA MAXCY, SUSAN IVORY-MAXCY, E'THUREL IVORY IV, and WILLIAM IVORY, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LISA IVORY,

Respondent-Appellant,

and

DAVID PEREZ, ETHUREL IVORY III, and TONY MARZETTE,

Respondents.

UNPUBLISHED
December 1, 2009

No. 292104
Berrien Circuit Court
Family Division
LC No. 2007-000130-NA

Before: Talbot, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

Respondent-appellant appeals as of right the trial court order terminating her parental rights to her minor children under MCL 712A.19b(3)(c)(*i*), (g) and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that termination was premature because petitioner failed to provide reasonable reunification services, and that given six months' adequate services, she could have resumed custody of her children. We disagree.

We review the trial court's findings of fact for clear error. MCR 3.977(J). The reasonableness of services provided is relevant to whether the evidence was sufficient to terminate parental rights, see generally *In re Newman*, 189 Mich App 61, 71; 472 NW2d 38 (1991), and is a question of fact. The trial court did not clearly err in finding that reunification efforts were reasonable, and the statutory grounds for termination of respondent's parental rights

were established by clear and convincing evidence. MCR 3.976(A); MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

This proceeding spanned 19 months. During the first three months, respondent completed assessments but did not engage in services designed to rectify the substance abuse, domestic violence and emotional health, lack of parenting skills, environmental neglect, and children's special needs that constituted the conditions leading to adjudication. During the next 13 months, respondent moved a few miles from her home in Niles, Michigan, to South Bend, Indiana, to separate from her abusive husband, despite acknowledging that petitioner was unable to offer her a full range of services in Indiana. While in South Bend, respondent obtained part-time employment and housing that was reported to be suitable, but she did not engage in counseling that addressed issues pertinent to reunification. Although she attended approximately 15 parenting class sessions, she did not complete an entire set, and she only attended 19 of 49 possible visits with the children. At these visits, respondent was unable to control the six children. Ten months after referral, she completed a substance abuse outpatient treatment program and provided three negative screens, but she did not supply documentation of weekly Narcotics Anonymous/Alcoholics Anonymous attendance. Respondent later relinquished her South Bend housing and employment when her husband, whose family also resided in South Bend, apparently began harassing her. Despite articulating a desire to divorce her husband, respondent never commenced legal action or sought a personal protection order. She moved to Three Rivers, Michigan, for the six weeks before the termination hearing, residing first in a shelter, then in a motel, and finally in a second shelter.

The evidence showed that petitioner made reasonable reunification efforts given respondent's relocation. It initiated an interstate compact for relative home study, provided information regarding two substance abuse treatment programs in South Bend, investigated the parenting and counseling programs that respondent accessed in South Bend, and arranged visits with the children to accommodate respondent's schedule and location when possible. Upon her return to Michigan, respondent failed to sign a release, enabling petitioner to ascertain what services she accessed in the shelter. Respondent's failure over 19 months to make sufficient progress toward rectifying the conditions of adjudication was not due to petitioner's lack of reasonable effort, but to the decisions that respondent made.

We further conclude that the trial court did not err in finding that respondent had not resolved issues concerning the need for suitable housing and employment, nor had she addressed the persistent issue of domestic violence, demonstrated an ability to effectively parent the children, or showed that she was and could remain substance free. Given that respondent has faced many of these issues since 2005 and has not benefited from services since that time, the trial court correctly found that there was no reasonable likelihood that respondent would provide proper care for the children within a reasonable time, and that the children would suffer the same harm if returned to her care as they had previously. There was clear and convincing evidence that statutory grounds for termination were established. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

Further, the evidence showed that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). The evidence showed that the children objected to termination of respondent's parental rights and most had several placements during their 19 months in foster care. All six were unlikely to be adopted into one home. However, some of the

children had stable foster care placements, and all were benefiting from counseling and services. The trial court correctly noted, "life just keeps happening" to respondent, and the children would continue "wandering through life with their mother." Given the long-standing nature of respondent's inability to properly parent her children, and the comparative stability that the children were receiving in foster care, the trial court did not err in finding that respondent would not provide stability, structure, safety, and proper care within a reasonable time, and that the children's best interests were served by being "taken out of that wandering" and given more than "just a chance" with respondent.

Affirmed.

/s/ Michael J. Talbot
/s/ Peter D. O'Connell
/s/ Alton T. Davis