

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of THOMAS EARL POWERS III  
and REBECCA MARIE POWERS, Minors.

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DEPARTMENT OF HUMAN SERVICES,  
f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JENNIFER POWERS,

Respondent-Appellant,

and

THOMAS POWERS,

Respondent.

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In the Matter of THOMAS EARL POWERS III and  
REBECCA MARIE POWERS, Minors.

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DEPARTMENT OF HUMAN SERVICES,  
f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

THOMAS POWERS,

Respondent-Appellant,

and

JENNIFER POWERS,

UNPUBLISHED  
October 18, 2005

No. 260600  
Macomb Circuit Court  
Family Division  
LC No. 99-048000-NA

No. 260601  
Macomb Circuit Court  
Family Division  
LC No. 99-048000-NA

Respondent.

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Before: Cavanagh, P.J., and Smolenski and Zahra, JJ.

PER CURIAM.

In Docket No. 260600, respondent Jennifer Powers appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), (i), and (j). In Docket No. 260601, respondent Thomas Powers appeals as of right from the same order, which terminated his parental rights to the children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). The appeals have been consolidated for this Court's consideration. We affirm.

We first address respondents' arguments regarding the statutory grounds for termination. The trial court did not clearly err in finding that §§ 19b(3)(c)(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), (g) (The parent, without regard to intent, fails to provide proper care or custody for the child 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), and (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), were each established by clear and convincing evidence with respect to both respondents. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondents' compliance, or lack thereof, with their parent-agency agreements during the course of the proceedings is not dispositive of whether any of the statutory grounds for termination were proven. See *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

With regard to § 19b(3)(c)(i), the evidence showed that the unstable home environment and related financial inability to provide for the children that existed at the time of the plea-based adjudication of Thomas in October 2002, continued to exist when the termination hearing concluded in January 2005. The foster care caseworker reported at a February 19, 2003 review hearing that respondents did not have adequate housing, as they were staying with Thomas' maternal grandmother who requested that they find somewhere else to live. At a February 25, 2004 permanency planning hearing for Thomas and review hearing for Rebecca, a caseworker reported that respondents were renting a room in a basement that was inadequate for the children. While there was evidence that respondents did eventually move to a larger apartment that may have been adequate, the evidence also showed that they lacked the ability to maintain the monthly rental payments and at the same time meet other basic needs. In light of respondents' past history, the court did not clearly err in concluding that the requirements of § 19b(3)(c)(i) were proven by clear and convincing evidence with respect to both respondents. The same evidence also supported the trial court's findings with respect to § 19b(3)(g) for both respondents.

In addition to respondents' unstable home situation, there was evidence demonstrating that respondents failed to provide proper physical care for Rebecca during the ninety-day

continuation of the termination hearing. Thus, the trial court did not clearly err in finding that there was a reasonable likelihood the children would be harmed if returned to respondents' home, thus supporting termination under § 19b(3)(j). See generally *In re Trejo*, 462 Mich 341, 346 n 3, 612 NW2d 407 (2000).

Although petitioner appears to concede that § 19b(3)(c)(ii) was not established by clear and convincing evidence with respect to either respondent, any error in relying on this statutory ground was harmless because only one statutory ground for termination is required. See *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Similarly, in light of our conclusion that §§ 19b(3)(c)(i), (g), and (j) were each established with respect to respondent Jennifer Powers, it is unnecessary to address whether it was proper to rely on § 19b(3)(i) as an additional statutory ground where the evidence indicated that she voluntarily released her parental rights to another child.

Respondent Thomas Powers has not established any independent basis for relief stemming from petitioner's efforts to reunite the family. The reasonableness of petitioner's efforts ultimately relates to the sufficiency of the evidence in support of the statutory grounds for termination. *In re Fried*, 266 Mich App 535 ; 702 NW2d 192 (2005); see also *In re Newman*, 189 Mich App 61, 65-67, 472 NW2d 38 (1991). As previously indicated, the evidence sufficiently supports the trial court's decision to terminate Thomas Powers' parental rights under §§ 19b(3)(c)(i), (g), and (j).

Furthermore, respondent Thomas Powers' newly raised claim of constitutional error does not establish a basis for relief. Although "[p]arents have a significant interest in the companion, care, custody, and management of their children, and the interest is an element of liberty protected by due process," *In re JK, supra* at 210, the right to parent a child is not unlimited. A due process violation does not occur if a statutory ground for termination is proven by clear and convincing evidence. *Id; In re Trejo, supra* at 355-356.

Finally, we reject respondent Jennifer Powers' challenge to the trial court's best interest decision. Termination is mandatory under MCL 712A.19b(5) once a statutory ground for termination is established, "unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo, supra* at 354. An appellate court reviews a trial court's decision regarding the child's best interests for clear error. *Id.* at 356-357. Here, very little, if any, evidence was presented regarding the children's best interests. If no evidence is offered regarding the children's best interests, a trial court need not make findings on the best interests. *In re Gazella, supra* at 678. Further, we note that the record indicates that minor Thomas has been in foster care for over two years, which was most of his life, and that Rebecca has been in foster care since birth. Considering the above conclusions, the evidence did not establish that termination of her parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 354-357.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Michael R. Smolenski  
/s/ Brian K. Zahra