

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

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In the Matter of ERIN NICOLE STIENKE, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BARBARA DELANO,

Respondent-Appellant,

and

RONNIE J. STIENKE,

Respondent.

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In the Matter of RONY MICHELLE STIENKE,  
a/k/a/ RONNY MICHELLE STIENKE, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BARBARA DELANO,

Respondent-Appellant,

and

RONNIE J. STIENKE,

Respondent.

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UNPUBLISHED  
February 26, 2008

No. 279185  
Macomb Circuit Court  
Family Division  
LC No. 2006-000346-NA

No. 279212  
Macomb Circuit Court  
Family Division  
LC No. 2006-000347-NA

Before: White, P.J., and Hoekstra and Schuette, JJ.

PER CURIAM.

Respondent Barbara Delano appeals as of right from the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and(i).<sup>1</sup> We affirm.

To terminate parental rights, the trial court must find that the petitioner has proved at least one statutory ground for termination by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). An appellate court “review[s] for clear error both the court’s decision that a ground for termination has been proven by clear and convincing evidence and, where appropriate, the court’s decision regarding the child’s best interest.” *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); see also MCR 3.977(J). A finding qualifies as 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 Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (internal quotation omitted).

The trial court did not clearly err in finding that statutory grounds for termination pursuant to MCL 712A.19b(i) were established by clear and convincing evidence. Indeed, it was not disputed that respondent’s parental rights to two other children had been terminated due to neglect after respondent had been given an opportunity to work on a parent-agency agreement and had not complied.

The trial court also did not clearly err in finding that respondent did not provide proper care or custody and would not be able to provide proper care and custody within a reasonable time. MCL 712A.19b(g). In so finding, the trial court pointed to the testimony of Erin’s teacher who saw negative changes in Erin and recommended that Erin be placed in counseling and tested for learning disabilities, which was never done. The trial court also relied on testimony that respondent allowed known drug users to stay in the home with the minor children and allowed the caretaker and her son to be in the home and around the minor children after Erin had been sexually abused by the caretaker’s son. This evidence clearly and convincingly established respondent’s failure to provide proper care and custody in the past. With regard to respondent’s future ability to provide proper care and custody, the trial court found that respondent was suffering from a number of mental health issues, had an explosive personality and excessive anger, had been prescribed medication from her treating psychiatrist that she did not take regularly, and needed at least a year or more to get her illness under control in the best case scenario. These findings too are supported by the evidence, and clearly and convincingly support that there was no reasonable likelihood that respondent would be able to provide proper care and custody within a reasonable time given the ages of the minor children.

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<sup>1</sup> Both respondent and petitioner cite incorrect statutory grounds for termination. In its opinion, the trial court plainly terminated respondent’s parental rights pursuant to MCL 712A.19b(3)(g) and (i).

While it is a closer question, the trial court also did not clearly err in its best interests determination. MCL 712A.19b(5). Although the guardian ad litem argued that it was not in the best interests of the minor children to terminate respondent's parental rights and that respondent should be given time to address her issues, the trial court determined that it was not in the best interests of the minor children to return to respondent's home until all of her mental health issues were resolved. Given respondent's history with these two children and her older children, this determination was not clearly wrong. Respondent's therapist testified that he had clients with bipolar disorder who did not pose a threat to their children, but the therapist would not render an opinion regarding whether respondent could herself care for her two children in her current condition. The therapist also testified that respondent would need at least a year of treatment to get her condition under control. The guardian ad litem's sympathy in recommending against termination was understandable, but no evidence suggested that termination of respondent's parental rights was clearly contrary to the minor children's best interests.

Affirmed.

/s/ Helene N. White

/s/ Joel P. Hoekstra

/s/ Bill Schuette