

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
July 31, 2012

In the Matter of M. M. Beeler, Minor.

No. 308135  
Wayne Circuit Court  
Family Division  
LC No. 09-488307-NA

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Before: DONOFRIO, P.J., and RONAYNE KRAUSE and BOONSTRA, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor child. We affirm.

Respondent argues that the trial court clearly erred in finding that there was clear and convincing evidence of grounds for termination pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We disagree.

We review the trial court's finding that a ground for termination has been established for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009), quoting *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made. *Id.* at 91.

"To terminate parental rights, a trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been proved by clear and convincing evidence." *In re Ellis*, 294 Mich App 30, 32; \_\_\_ NW2d \_\_\_ (2011). "Only one statutory ground need be established by clear and convincing evidence to terminate a respondent's parental rights, even if the court erroneously found sufficient evidence under other statutory grounds." *Id.* If a statutory ground for termination is established, and the trial court finds that termination of parental rights is in the child's best interest, the court must order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made. *Id.* at 32-33. In this case, the trial court's termination order was made pursuant to

MCL 712A.19b(3)(b)(i), (c)(i), (g), (h), and (j). On appeal, respondent challenges the court's findings under MCL 712A.19b(3)(c)(i), (g), and (j) only.<sup>1</sup>

MCL 712A.19b(3)(c)(i) states that a court must find by clear and convincing evidence that “[t]he 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.” The court did not clearly err in finding that there was clear and convincing evidence of grounds for termination pursuant to MCL 712A.19b(3)(c)(i). The court first became involved with respondent and the minor child when respondent was arrested on June 25, 2009, for possession of heroin and using counterfeit money to purchase heroin. In November 2011, over two years later, respondent tested positive for heroin. Despite respondent’s efforts, she continued to have a serious substance abuse problem after a substantial amount of time. At trial, respondent stated that she planned on getting the help she needed. However, at that time, she was not at all compliant with the parent/agency treatment plan. The parent/agency treatment plan required respondent to complete a substance abuse program, take weekly drug screens, enroll in parenting classes, participate in individual counseling, and secure suitable housing and a legal source of income. The record reflects that eight dispositional hearings were held over the course of nearly two years. Although respondent initially made progress with maintaining sobriety and finding employment and housing, she became less and less compliant with her treatment plan over the course of that time period. At the time of trial, respondent was not in compliance with her treatment plan. She was not participating in a substance abuse program, she did not have stable housing or a legal source of income, had missed fourteen weekly drug screens, and had tested positive for cocaine only a few weeks prior. Respondent testified to four relapses since the child was removed from her care. During the course of the termination trial, respondent was suspended from her inpatient substance abuse program for testing positive for heroin. The record reflects that the trial court gave respondent numerous chances, over a period of nearly two years, to comply with the program; and, by the time of its decision, respondent was essentially starting over at square one. We cannot state that the trial court clearly erred in finding that respondent’s substance abuse continued to exist, and that there was no reasonable likelihood that it would be rectified in a reasonable time.

Under MCL 712A.19b(3)(g), a court must find by clear and convincing evidence that “[t]he 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.” A parent’s failure to comply with a parent/agency treatment plan pursuant to a court order can be a valid indication of neglect. *In re Trejo*, 462 Mich at 360-361 n 16.

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<sup>1</sup> The termination proceeding was brought as to both respondent and the minor’s father. The trial court additionally found grounds for termination under MCL 712A.19b(3)(b)(i) and (h), but those findings are not the subject of this appeal, presumably because they do not relate to respondent. Petitioner does not contend otherwise. The minor’s father has not appealed the trial court’s termination order as to him.

The trial court did not clearly err in finding that there was clear and convincing evidence of the grounds for termination pursuant to MCL 712A.19b(3)(g). Respondent failed to comply with the parent/agency treatment plan ordered by the court. Respondent's failure to comply with the parent/agency treatment plan is an indication of neglect. *In re Trejo*, 462 Mich at 360-361 n 16. In addition, respondent has a serious drug problem. Over the course of the court proceedings, respondent continually abused drugs. On January 28, 2010, respondent tested positive for marijuana. In April 2011, respondent tested positive for cocaine. In November 2011, respondent tested positive for heroin. At trial, respondent admitted that she had a heroin addiction and had been using for two or three years. It is clear that respondent has a serious substance abuse problem that prevents her from providing proper care for her child. Based on respondent's noncompliance with the parent/agency treatment plan and her continued drug use over the course of the court proceedings, the trial court properly found no reasonable likelihood that respondent will be able to provide proper care or custody within a reasonable time.

MCL 712A.19b(3)(j) states that a court must find by clear and convincing evidence that "[t]here 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." Harm includes both physical harm and emotional harm. *In re Hudson*, 294 Mich App 261, 268; \_\_\_ NW2d \_\_\_ (2011).

The trial court did not clearly err in finding that there was clear and convincing evidence of the grounds for termination pursuant to MCL 712A.19b(3)(j). Respondent argues that there was no evidence of physical abuse or direct neglect. However, respondent only considers physical harm, and not emotional harm. Respondent's drug abuse has deprived the minor of a normal and stable life with respondent. Furthermore, respondent has put the minor child in unsafe situations, specifically during the incident that led to court involvement. Respondent was arrested for possession of heroin while the minor child was in the car. Based on respondent's past actions and respondent's capacity to provide a stable life, the court did not err in finding that it was reasonably likely that the minor child would be harmed if she was returned to the home of respondent.

For all of these reasons, the trial court did not clearly err in finding that there was clear and convincing evidence of the grounds for termination pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Respondent does not challenge on appeal the trial court's further finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5). See *In re JS & SM*, 231 Mich App 92, 98; 585 NW 2d 326 (1998) overruled in part on another ground, *In re Trejo*, 462 Mich 341, 353; 612 NW 2d 407 (2000) (an issue is abandoned if not briefed on appeal).

In reaching these findings, we do not discount the hard-fought victories that respondent has won over her addiction to date. However, the record reflects that respondent continues to fight an ongoing battle against addiction. The record is clear that the trial court properly considered the best interests of the minor child, and that its decision to terminate respondent's rights to her child was made out of concern that the child would become an innocent casualty in respondent's ongoing war with addiction. We find no grounds on which to disturb that decision.

Affirmed.

/s/ Pat M. Donofrio  
/s/ Amy Ronayne Krause  
/s/ Mark T. Boonstra