

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of KOLK, Minors.

UNPUBLISHED  
October 15, 2013

No. 315088  
Newaygo Circuit Court  
Family Division  
LC No. 11-007988-NA

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Before: MURRAY, P.J., and DONOFRIO and BORRELLO, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court’s order terminating his parental rights to the minor children, “GMK” and “GJK,” under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (child will be harmed if returned to parent).<sup>1</sup> Because termination of respondent’s parental rights was in the children’s best interests, we affirm.<sup>2</sup>

“Once a statutory ground for termination has been proven, the trial court must find that termination is in the child’s best interests before it can terminate parental rights.” *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review for clear error a trial court’s determination that termination is in a child’s best interests. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In making that determination, the trial court may consider the child’s need for stability and permanency and whether the child is progressing in foster care. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). Although a child may experience grief and loss as a result of termination, termination may still be in the child’s best interests where the evidence shows that the child could overcome that loss and be able to achieve permanency and stability. See *In re LE*, 278 Mich App 1, 29; 747 NW2d 883 (2008).

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<sup>1</sup> Petitioner moved to terminate respondent’s parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Although the trial court did not state explicitly which subsections it was relying on when it rendered its oral ruling, the language that the court used was consistent with termination pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).

<sup>2</sup> Respondent does not challenge the trial court’s determination that clear and convincing evidence established the statutory grounds for termination.

In this case, although it was clear that respondent was bonded with the children, the record established that the children considered respondent to be “an adult playmate” as opposed to a parental figure who would provide and care for them. The record also established that the children had been without food, electricity, and heat for a period of time while in respondent’s care and that they experienced “elevated anxiety” at the thought of returning to respondent’s home. In addition, the record showed that GJK would be emotionally “damaged” if returned to respondent because respondent was incapable of providing the discipline, structure, and nurturing that GJK required. Moreover, the children, who had been in foster care for more than 1-½ years at the time of termination, had adjusted well in their placement. GMK referred to her foster parents as “mom” and “dad” and was bonded with her foster siblings.

Testimony also showed that respondent was unable to properly supervise the children during visitation when he was in a depressed mood. Although respondent had been prescribed medication, he failed to take it on occasion. Respondent also refused several services that were designed to address his substance abuse and domestic violence issues, two conditions that led to the adjudication. The record established that respondent continued to use illegal drugs and remained in a relationship that involved domestic violence throughout the majority of the lower court proceedings. Although respondent argues that he should have been provided “one last review period[,]” he also admits that the trial court “extended deadlines at every opportunity[.]” Despite the extensions, respondent was unable to progress to the point that it would have been safe for the children to be returned to his care. Thus, based on a review of the record, the trial court did not clearly err by determining that termination of respondent’s parental rights was in the children’s best interests.

Affirmed.

/s/ Christopher M. Murray

/s/ Pat M. Donofrio

/s/ Stephen L. Borrello