

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of J. J. E. M. MASON, Minor.

UNPUBLISHED  
February 13, 2014

No. 316843  
Calhoun Circuit Court  
Family Division  
LC No. 2011-003585-NA

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Before: BOONSTRA, P.J., and CAVANAGH and FITZGERALD, JJ.

PER CURIAM.

Respondent-mother appeals as of right the order terminating her parental rights to her minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j).<sup>1</sup> We affirm.

“This Court reviews for clear error the trial court’s ruling that a statutory ground for termination has been established and its ruling that termination is in the children’s best interests.” *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). “A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made.” *Id.*

On the night of November 17, 2011, police observed respondent walking outside with her four-month-old child in freezing temperatures. The child was not properly dressed for the elements and was rushed to the emergency room, where he was treated for hypothermia. The child was removed from the care of respondent the next day, and remained in foster care until respondent’s parental rights were terminated on May 28, 2013.

MCL 712A.19b(3)(g) allows for termination of parental rights where a parent, without regard to intent, fails to provide proper care or custody and there is no reasonable expectation that the parent will be able to do so within a reasonable time considering the age of the child. Here, the record supported that respondent failed to provide proper care and custody for the child during the time the child was in her care and custody, as evidenced by, among other things, the child requiring medical treatment for hypothermia. During the subsequent 18 months that the child was in foster placement, respondent participated in numerous services to improve her

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<sup>1</sup> The trial court also terminated the respondent-father’s parental rights to the minor child, but respondent-father is not a party to this appeal.

parenting skills and decision-making, including parenting classes, the Family Partnership Nurse program, supervised parenting time, a psychological evaluation, mental health services, outreach counseling, and a domestic violence group. However, mere compliance with services, without benefitting from those services, is insufficient to avoid termination of parental rights:

“Compliance” could be interpreted as merely going through the motions physically; showing up for and sitting through counseling sessions, for example. However, it is not enough to merely go through the motions; a parent must benefit from services offered so that he or she can improve parenting skills to the point where the children will no longer be at risk in the parent’s custody. In other words, it is necessary, but not sufficient, to physically comply with the terms of a parent/agency agreement or case service plan. For example, attending parenting classes, but learning nothing from them and, therefore, not changing one’s harmful parenting behaviors, is of no benefit to the parent or child. [*In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005), superseded in part on other grounds by statute as stated in *In re Hansen*, 285 Mich App 158, 163; 774 NW2d 698 (2009), vacated on other grounds 486 Mich 1037 (2010).]

In this case, the record supported that respondent did not benefit from services and that she would be unable to provide proper care and custody within a reasonable time considering the child’s age. In particular, respondent’s parenting class instructor reported that she did not cognitively understand the parenting skills that were being taught and lacked the capacity to practically apply those skills. The record established that the child was less than two years old at the time of termination, had been in foster care for approximately 18 months, and needed stability. Given respondent’s failure to demonstrate consistent and substantial benefit during the lengthy case, the record did not establish that respondent would be able to provide proper care and custody for the child within a reasonable time given the child’s age. See MCL 712A.19b(3)(g); *In re Gazella*, 264 Mich App at 676; *In re CR*, 250 Mich App 185, 196; 646 NW2d 506 (2002) (where the “children had been in foster care for more than a year” and there was “no real evidence that” the respondent benefitted from services, “there was sufficient evidence that [the respondent] had failed to provide proper care and custody for her children in the past and would be unlikely to be able to provide that proper care and custody within a reasonable amount of time given the children’s ages”). Thus, the trial court’s finding that MCL 712A.19b(3)(g) provided a statutory ground for termination of respondent’s parental rights to the child does not leave us with “a definite and firm conviction that a mistake has been made.” *In re Hudson*, 294 Mich App at 264.

Having concluded that the trial court did not clearly err by finding a statutory ground for termination under MCL 712A.19b(3)(g), we do not need to address the trial court’s additional grounds for termination. See *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). Nevertheless, we also conclude that the record supported the trial court’s finding that MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (c)(ii) (other conditions exist that cause the child to come within the court’s jurisdiction), and (j) (child will be harmed if returned to parent) constituted additional grounds for termination.

Furthermore, the trial court did not clearly err by determining that termination of respondent’s parental rights was in the child’s best interests. At the time of termination, the child

was less than two years old and had been living in the same pre-adoptive foster home for the previous 18 months. The record established that the child was thriving in his foster placement and was bonded to his foster parents, who wished to adopt him. The child's caseworker testified that the child needed permanency and stability, which respondent, who was homeless and unemployed at the time of termination, could not provide. As discussed above, respondent had not demonstrated a benefit from her services to the point that she could appropriately parent the child.

Accordingly, the trial court's best interest determination does not leave us "with a definite and firm conviction that a mistake has been made." *In re Hudson*, 294 Mich App at 264; see also *In re Trejo Minors*, 462 Mich 341, 364; 612 NW2d 407 (2000) ("[W]e cannot conclude that the court's assessment of the children's best interests was clearly erroneous. . . . The court did not clearly err by refusing to further delay permanency for the children, given the uncertain potential for success and extended duration of respondent's reunification plan."); *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011) (holding that "[t]he evidence clearly supported the trial court's finding that termination was in the children's best interests" where "[t]he children had been placed in a stable home where they were thriving and progressing and that could provide them continued stability and permanency given the foster parents' desire to adopt them").

Affirmed.

/s/ Mark T. Boonstra  
/s/ Mark J. Cavanagh  
/s/ E. Thomas Fitzgerald