

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of VANVALKENBURG/LOVERN,  
Minors.

UNPUBLISHED  
April 29, 2014

No. 315311  
Ingham Circuit Court  
Family Division  
LC No. 12-000144-NA

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AFTER REMAND

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

PER CURIAM.

Respondents, father and mother of the minor children,<sup>1</sup> appealed as of right from the order terminating their parental rights to their respective children. We held that the trial court did not commit clear error in finding statutory grounds to terminate respondents' parental rights under subsections (c)(i), (g), and (j) of MCL 712A.19b(3), but that the court failed to make all the requisite findings of fact necessary to support its best-interest determination as to each child. Therefore, we vacated the order terminating parental rights and remanded for a redetermination of best interests as required by *In re Olive/Metts*, 297 Mich App 35, 42-44; 823 NW2d 144 (2012). *In re Vanvalkenburg/Lovern Minors*, unpublished opinion per curiam of the Court of Appeals, issued October 8, 2013 (Docket No. 315311). We retained jurisdiction, and now affirm the trial court's termination of parental rights.

The facts of this case are set forth in our previous opinion. See *id.* At 1-4. After we remanded the case, the trial court held a new hearing on best interests on December 9, 2013. Neither respondent attended the hearing. The trial court heard testimony from Katelyn Kujawa, respondents' foster care worker and petitioner. Kujawa testified that at the time of the termination hearing (as well as presently), NV was placed with his legal father, TL was placed with his maternal aunt, and AL, DL, and CL were placed with their maternal grandmother.

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<sup>1</sup> Respondent-mother is the mother of all five of the minor children. Respondent-father is the father of four of the minor children, TL, AL, DL, and CL. The father of the fifth minor child, NV, is not a party to this action, and no proceedings have been initiated against him.

With regard to TL, Kujawa testified that he required stability, behavioral management, and assistance in school, and that being placed with his maternal aunt allowed him to receive extra assistance. Regarding AL, Kujawa testified that she was doing well in her placement, that she had overcome insecurities and fear of new situations and strangers, and that she was no longer afraid of moving every few months. Regarding CL, Kujawa testified that he had “very little” bond with his parents, that he was brought into care immediately after his birth, and that respondents had only attended 11 out of 105 visits while he was in foster care. CL also had significant health problems when he came into care and was flourishing in his placement; he had recently been removed from oxygen. Kujawa opined that respondents would not be able to handle any future health problems if CL developed them. Regarding DL, Kujawa testified that he also required behavioral management and benefitted from the stability of his placement. Regarding NV (as to whom, again, only respondent-mother’s parental rights were at issue), Kujawa testified that respondent-mother dropped him off at his father’s home in June 2011 and never returned to pick him up. It was unknown when respondent-mother last had contact with NV. Kujawa opined that respondent-mother had abandoned NV.

Kujawa testified that respondents never provided proof of stable jobs, income, or housing during the pendency of this case, that the children were “in and out of different shelters” and hotels before they came into care, that respondents failed to participate in the majority of scheduled drug screens, and that, although the children were placed with different relatives the children were all able to see each other at least once a month. Kujawa also testified that the plan was for TL’s maternal aunt to adopt him.

The trial court found it was in the children’s best interest to terminate the parental rights of both parents to AL, CL, DL, and TL, and to terminate respondent-mother’s rights to NV, stating:

The Court in compliance with the Court of Appeals findings as to the best interest first of all will address the issue of [NV]. [NV]’s mom has abandoned this child for all practical purposes. There’s no bond between the child and the mother and because of that the Court finds that it’s in his best interest that his mother’s rights be terminated. However, the father—the child is placed with the father and the child is not made a ward of the State of Michigan.

As far as the minors [TL, AL, DL and CL], first of all [TL]. [TL], again like all children, need [sic] stability and that is not being provided to this child by either parent. The child is in relative placement but it is still in the best interest of the child to bring greater stability to the child and to allow that child perhaps new adoption by possibly the relative. . . .

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As far as [AL, DL and CL] as well, there’s no bond between the parents and this child. Each one of these children again needs permanence and stability in their lives. It’s in their best interest to allow the termination of both parents and the Court does so in fact order that.

The trial court issued an order on December 16, 2013 and an amended order on April 16, 2014, terminating the rights of both respondents to TL, AL, DL, and CL and making them wards of the state, and terminating the rights of respondent-mother to NV.

“[W]hether termination of parental rights is in the best interests of the child[ren] must be proved by a preponderance of the evidence.” *In re Moss*, 301 Mich App 76, 90; 336 NW2d 182 (2013). The court must weigh all evidence in the whole record to determine whether termination of parental rights is in the best interests of the children. *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The court should consider the parent’s capacity to care for children, as well as the children’s “need for permanency, stability, and finality.” *In re Olive/Metts Minors*, 297 Mich App at 42. We review a trial court’s termination decision for clear error. MCR 3.977(E)(3); MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

We hold that the trial court did not clearly err in determining that termination was in the best interests of all five minor children. The trial court found that the children’s interests in stability would be best served by termination, and that respondents lacked the capacity to care for the children. The trial court additionally found that respondents would not be able to manage CL’s health, that DL and TL required extra services that were best provided at their current placement, that AL had overcome insecurities and fears related to constantly moving, and that respondent-mother had essentially abandoned NV. Such findings are supported by a preponderance of record evidence, and are thus not clearly erroneous. *Moss*, 301 Mich App at 90.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Amy Ronayne Krause  
/s/ Mark T. Boonstra