

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of J.R. CHEEKS, Minor.

UNPUBLISHED  
June 10, 2014

No. 315523  
Wayne Circuit Court  
Family Division  
LC No. 10-493879-NA

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AFTER REMAND

Before: SAAD, P.J., and SAWYER and JANSEN, JJ.

PER CURIAM.

Following respondent’s initial appeal, we remanded this matter to the circuit court for (1) an articulation of the statutory bases for termination, and (2) additional findings concerning the identity of the perpetrator of sexual abuse against the minor child.<sup>1</sup> We now affirm.

In its order entered on remand, the circuit court ruled that there was “clear and convincing evidence” to establish that the minor child “would be at risk for further sexual abuse if the mother retained her parental rights.” Accordingly, although the court still failed to articulate a specific statutory ground for its decision to terminate respondent’s parental rights, we conclude that it acted under MCL 712A.19b(3)(j), one of the three statutory bases set forth in the petition.

We also conclude that there was clear and convincing evidence to establish “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” within the meaning of MCL 712A.19b(3)(j). Our initial concerns in this case pertained to the identity of the perpetrator of sexual abuse against the minor child. Although the circuit court determined that the sexual abuse had been perpetrated by respondent’s boyfriend, Mr. Colding, it provided no reasoning for this conclusion. Moreover, there was at least some evidence in the lower court record to suggest that the sexual abuse had been perpetrated by the child’s father, Mr. Gool.

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<sup>1</sup> *In re Cheeks*, unpublished opinion per curiam of the Court of Appeals, issued October 15, 2013 (Docket No. 315523).

The circuit court has now adequately addressed our concerns in this regard, explaining why it was more likely than not that Mr. Colding was the source of the sexually transmitted diseases contracted by the child. We note that the circuit court is in the best position to judge the credibility of the witnesses and assess the weight of the evidence, and we defer to its determinations on these matters. See *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011). Further, as we explained in our earlier opinion, “if the sexual abuse was truly perpetrated by [Mr. Colding], respondent was certainly in a position to protect the child from the abuse.”<sup>2</sup> At a minimum, there was clear and convincing evidence to establish that respondent failed to protect the child from sexual abuse and that the child would be at risk of further sexual abuse if returned to respondent’s home. This was sufficient to satisfy the statutory ground for termination set forth in MCL 712A.19b(3)(j).<sup>3</sup>

Affirmed.

/s/ Henry William Saad  
/s/ David H. Sawyer  
/s/ Kathleen Jansen

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<sup>2</sup> *In re Cheeks*, unpub op at 2 n 1.

<sup>3</sup> “Only one statutory ground need be established by clear and convincing evidence to terminate a respondent’s parental rights[.]” *In re Ellis*, 294 Mich App at 32.