

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ADAMS, Minors.

UNPUBLISHED  
October 8, 2013

No. 314884  
Ingham Circuit Court  
Family Division  
LC No. 11-001747-NA

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Before: HOEKSTRA, 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 two of her children. She argues that the trial court erred in finding that there was clear and convincing evidence to establish grounds to terminate her parental rights under MCL 712A.19b(3)(c)(i), (g), and (j), and in finding that the termination of her parental rights was in the children's best interests. We affirm.

The trial court's finding that a ground for termination was proven by clear and convincing evidence, as well as its finding that termination was in a child's best interest, is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A decision is "clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

I. STATUTORY GROUNDS FOR TERMINATION

MCL 712A.19b(3) provides in relevant part:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

\* \* \*

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The 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.

\* \* \*

(g) The 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.

\* \* \*

(j) There 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.

Only one statutory ground is needed to terminate parental rights. *In re Trejo*, 462 Mich at 360.

On appeal, respondent does not challenge the trial court's finding that there was clear and convincing evidence to terminate her parental rights under MCL 712A.19b(3)(j) beyond citing the statute and noting the trial court's reliance on it. Respondent misconstrues the trial court's decision as terminating her rights based only on her lack of employment, housing, and common sense. The trial court did not clearly err in finding that there was clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(j).

With respect to MCL 712A.19b(3)(j), the trial court concluded there was a reasonable likelihood that respondent's children would be harmed if returned to her because she "makes poor choices relating to the men in her life" and lacked the common sense to keep the children safe from others. According to respondent, she believed allegations from one of her sons that her then-husband sexually abused him, but she thereafter informed her then-husband of an investigation against him by Child Protective Services and initiated telephone contact between him and her son. She also stated that she intended to remain married to her then-husband at that time and filled out housing applications listing him as a person who would be living in their home.

The evidence also showed that she permitted her then-husband to babysit for her children after learning he had pushed one of the children down a set of stairs, and that both he and the children's legal father had exposed the children to domestic violence. Furthermore, the evidence showed that respondent exposed her children to a dangerous situation through her willingness to move the children into a motel room next to the room of a man she barely knew based on his offer to employ her as his personal assistant. Accordingly, the trial court did not clearly err in finding that, by clear and convincing evidence, there was a reasonable likelihood that the children would be harmed if they were returned to respondent. See *In re Archer*, 277 Mich App 71, 75-76; 744 NW2d 1 (2007) (affirming the trial court's termination of parental rights under subsections MCL 712A.19b(3)(g) and (j) where the mother "did nothing to prevent known sex offenders from interacting with her children" and had a "history of failing to protect her children from physical injury and abuse").

We also conclude that there was clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(c)(i) and (g). With respect to subsection MCL 712A.19b(3)(c)(i), it is uncontested that the reasons for the trial court's adjudication—respondent's lack of employment and housing—continued for more than 182 days after the

March 2012 initial dispositional hearing. Indeed, respondent testified at her February 2013 termination hearing that she remained unemployed and had not obtained suitable housing, and that she was no more equipped with respect to housing or employment than she was when she voluntarily placed her children in foster care in December 2011.

There was also clear and convincing evidence that there was no reasonable likelihood respondent could rectify these conditions within a reasonable time considering the children's ages—five and six. With respect to respondent's employment situation, the evidence showed that since 1998, respondent had only been employed once—for a period of six months. Furthermore, the evidence showed that respondent had made considerable efforts to find employment during the previous nine months and had taken classes to improve her job-seeking skills, but that she was nevertheless unable to find any employment despite possessing the tools to do so. The evidence also showed that respondent's children had been in foster care in two states for approximately three years—half their lives—waiting for respondent to find a job so she could provide for them.

Similarly, the evidence showed that respondent made efforts to apply for housing opportunities, but that her efforts were again unsuccessful, and there was no evidence that she had any promising leads. At one location, she was informed that she was the 81st person in line to receive a housing opportunity. Accordingly, the trial court did not clearly err in concluding that, by clear and convincing evidence, there was no reasonable likelihood that respondent could obtain stable housing within a reasonable time given the children's ages.

Respondent argues that she was making strides toward obtaining employment and housing, but that her efforts were impaired by her foster care caseworker's lack of assistance and a poor economy. The trial court recognized her efforts to obtain employment and housing but correctly concluded that, for whatever reason, her efforts were ultimately unsuccessful and that there was no evidence indicating she could rectify these conditions within a reasonable time. Although a respondent's compliance with the parent-agency agreement is relevant, see *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003), a respondent must "sufficiently benefit from the services offered to enable a court to find that she could provide a home for her children in which they would no longer be at risk of harm." *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005), superseded by statute on other grounds as stated in *In re Hansen*, 285 Mich App 158, 163; 774 NW2d 698 (2009), vac on other grounds 486 Mich 1037 (2010). Thus, the trial court did not clearly err in concluding that there was clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i).

With respect to MCL 712A.19b(3)(g), the trial court found that there was sufficient evidence to conclude that respondent could not provide proper care and custody for her children due to her lack of housing and employment, and that she could not be reasonably expected to provide proper care and custody within a reasonable time. For the reasons discussed *supra* in connection with MCL 712A.19b(3)(c)(i), the trial court did not clearly err in making this finding. Respondent had ample opportunity to find employment and housing—and received ample forms of assistance through classes and coaching—yet she proved unable to do so over an extended period of time despite her apparent best efforts. See *In re Trejo*, 463 Mich at 362 ("We agree that the evidence of respondent's inability to obtain and maintain suitable housing supports the court's conclusion that respondent, without regard to her intent, had failed to provide proper care or custody of her children as alleged under subsection 19b(3)(g).").

Furthermore, as discussed *supra* in connection with MCR 712A.19b(3)(j), there was clear and convincing evidence that respondent initiated interaction between her child and a man accused of physically and sexually abusing the child—accusations that she believed—and continued making plans for the alleged perpetrator to live with her and her children. See *In re Archer*, 277 Mich App at 75-76. Accordingly, we hold that the trial court did not clearly err in terminating respondent’s rights under MCR 712A.19b(3)(c)(i), (g), or (j).

## II. BEST INTEREST DETERMINATION

We also hold that the trial court did not clearly err in finding that it was in the children’s best interest to terminate respondent’s parental rights. The trial court must find that termination is in the children’s best interest by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 83; \_\_\_ NW2d \_\_\_ (2013).

Respondent’s argument that termination was not in the children’s best interest because she had a “bond” with her children misses the point. In *In re Frey*, 297 Mich App 242, 248-249; 776 NW2d 415 (2009), this Court stated the following with respect to the best-interest determination:

The child was in foster care or placed with relatives for 22 months. While respondents did make some progress in addressing their issues, the evidence showed that it was unlikely that the child could be returned to her parents’ home within the foreseeable future, if at all. The child required a permanent, safe, and stable home, which neither respondent was capable of providing. Hence, the trial court did not clearly err by determining that termination of respondents’ parental rights was in the child’s best interests.

Similarly, the trial court here concluded that it was in the children’s best interest to have permanency, and that respondent was unable to provide them with permanency despite her best efforts and ample opportunity. As discussed *supra*, the children had been in foster care in two states for a total of three years. During this time respondent could not find employment or housing and could not provide for the children’s basic needs despite their emotional bond. Although she was trying to obtain employment and housing, the evidence showed that her efforts were continually unsuccessful, and there was no evidence she would be able to obtain either within the foreseeable future. Accordingly, respondent has failed to establish that the trial court clearly erred in concluding that it was in the best interest of the children to terminate her parental rights.

Affirmed.

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