

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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UNPUBLISHED  
October 15, 2013

In the Matter of C. DOUGLAS, Minor.

No. 314769  
Ingham Circuit Court  
Family Division  
LC No. 11-000895-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 pursuant to MCL 712A.19b(3)(g) (failure to provide proper care and custody) and MCL 712A.19b(3)(j) (reasonable likelihood of harm).<sup>1</sup> Because we conclude that the trial court did not clearly err by finding at least one statutory ground for termination was proved by clear and convincing evidence or by finding that termination was in the child's best interests, we affirm.

On July 1, 2011, the trial court authorized the petition to take jurisdiction over the minor child. Respondent's daughter was removed from respondent's care when the child was about five months old because of domestic violence and inappropriate housing. Respondent was offered numerous services, including GED classes, substance abuse counseling, drug screens, domestic violence counseling and classes, Early On services, parenting time, and psychological evaluations. However, by the time respondent's third caseworker was assigned, she had not been participating in services for two months and had been dropped from her referrals because of her lack of attendance. When the caseworker tried to restart services, respondent failed to act on a referral for a psychological evaluation and either did not participate in drug screens or tested positive. Moreover, the caseworker believed respondent had only attended one parenting time visitation in August 2012 and one in September 2012. The caseworker testified that respondent was very appropriate and attentive during parenting time, but believed that the bond between respondent and the child was greatly diminished. There were no parenting time visitations between September 2012 and January 2013. Respondent was only able to maintain employment for a few weeks. Respondent was evicted from her residence in July 2012, and she described herself as homeless from September 2012 until January 2013. Her caseworker testified that after

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<sup>1</sup> The parental rights of legal father were also terminated during the same proceedings. He is not a party to this appeal.

respondent lost her job, she stopped participating in her case service plan and was difficult to contact. Respondent's parental rights were terminated following a hearing on January 14, 2013. Respondent now appeals as of right.

On appeal, respondent first argues that the trial court clearly erred by finding clear and convincing evidence to prove the statutory grounds for termination of her parental rights.

To terminate parental rights, the trial court must find that the petitioner has proven at least one of the statutory grounds for termination by clear and convincing evidence. MCL 712A.19b(3); MCR 3.977(H)(3)(a); *In re Sours Minors*, 459 Mich 624, 632; 593 NW2d 520 (1999). We review for clear error a trial court's decision terminating parental rights. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours Minors*, 459 Mich at 633. 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. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). We give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

In this case, respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(g), and (j), which provide in pertinent 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:

\* \* \*

(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.

We conclude that the trial court did not clearly err in finding that plaintiff had met its burden of proof on both statutory grounds. The minor child was about five months old when she was removed from respondent's care, and just shy of two years old at the time of the termination hearing. Thus, the child had been cared for by others for the majority of her life. The evidence clearly established that from at least September 2012 until January 2013 respondent did not participate in services, did not contact her caseworker, and did not visit with her daughter. The evidence also showed that respondent had an unacknowledged substance abuse problem and did not have a stable home, employment, or income. While respondent argues that she would be able to properly care for the child with proper services, the evidence showed that she did not participate in services when they were offered. Respondent has not presented any evidence to suggest that her behavior would be different if provided additional time and services. Moreover,

given the child's age, respondent's inability to benefit from the services she was offered, and her housing and income situation, the record established both that respondent will not be able to attend to her daughter's needs within a reasonable time, and that there is a reasonable likelihood that the child will be harmed if returned to respondent's care. Accordingly, we find no clear error.

Respondent also argues that the trial court clearly erred by finding that termination of her parental rights was in the child's best interests. MCL 712A.19(b)(5); MCR 3.977(K).

We review the trial court's best-interest determination for clear error. MCR 3.977(K). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19(b)(5). A trial court may consider evidence on the whole record in making its best-interest determination. *In re Trejo Minors*, 462 Mich at 353. Specifically, "[i]n deciding whether termination is in the child's best interests, the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted). The trial court may also consider a parent's history, an unfavorable psychological evaluation, and the child's age. See *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009).

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *In re Moss Minors*, 301 Mich App 76; 836 NW2d 182 (2013).

In this case, the trial court found termination was in the child's best interests because (1) respondent was homeless, (2) respondent had an unacknowledged substance abuse issue, (3) respondent did not participate in services and was absent from the child's life from at least September 2012 until trial, (4) the bond between respondent and the child was diminished by the long periods of no contact between them, and (5) the child needed stability and permanence that she would not be able to obtain with a guardianship.

The record clearly supports the trial court's findings. There was evidence that respondent had not participated in services since September 2012. Respondent admitted she was homeless and was "staying from place to place." When she resumed drug screens, respondent tested positive for THC three or four times. Respondent admitted that she had testified positive, but stressed that her "last dirty drop was in May" 2012. However, she also admitted that the last time she "used" was "[a] couple of months" before the January trial. Nonetheless, respondent testified that she did not think she had a substance abuse problem.

Although respondent testified that the parent-child bond was not broken, her caseworker testified that the bond was greatly diminished. As of trial, the child was almost two years old and had been placed out of respondent's care for 17 months. Respondent admitted that she had

not regularly attended parenting time since the child was removed from her care. Respondent's caseworker testified that respondent saw her daughter once in August 2012 and once in September 2012, but that she had not had any further parenting time since. Given the evidence of minimal contact between respondent and her daughter for a significant portion of the child's life, the court did not clearly err in finding that the bond between mother and daughter "has diminished."

In light of these circumstances, the trial did not err in finding that termination was in the child's best interests.

Affirmed.

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