

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

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In the Matter of CHRISTOPHER STEPANSKI  
and SPENCER BRISSETTE, Minors.

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DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
February 7, 2006

Petitioner-Appellee,

v

STACY ANN BRISSETTE,

Respondent-Appellant.

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No. 264089  
Bay Circuit Court  
Family Division  
LC No. 04-008402-NA

Before: Meter, P.J., Whitbeck, C.J., and Schuette, J.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

**I. FACTS**

Respondent appeals from the July 1, 2005 order terminating her parental rights to Christopher Stepanski and Spencer Brissette under MCL 712A.19b(3)(c)(i) and (g) (failure to provide proper care and custody), which was entered by the trial court. The fathers of both minor children voluntarily relinquished their parental rights and they are not parties to this appeal.

This case first came to the attention of the Department of Health and Human Services in April 2004, when petitioner observed respondent's home to have feces on the walls, floor and bed of the children's bedroom, strong smells of urine and feces, and other unsanitary conditions. The psychological evaluation of respondent reflected a full scale IQ of 56. The evaluator further reported that respondent indicated she and Mr. Brissette had a verbally and physically volatile relationship. Respondent also admitted to an arrest for pulling the hair of a female friend and punching her in the stomach. The evaluator concluded that respondent had a difficulty understanding the needs of her children based on their age and development, and that she had substantial deficits in her parenting. In sum, respondent had problems with anger management,

nutrition, keeping the house clean and caring for her children, but she refused to take responsibility for the intervention of protective services.

The trial court took jurisdiction over the children. Consequently, respondent agreed to participate in a treatment plan through Michigan Psychiatric Associates (MPA), which directed her to attend parenting classes, learn about nutrition, attend marriage counseling and individual counseling and maintain a clean and safe home. After a series of dispositional review hearings, the court found that the respondent was complying with the treatment plan, but was incapable of implementing what she was learning when acting independently. The court found that progress was not made toward the children's return home because respondent was still unable to display the most basic parenting skills.

The termination hearing was held on June 9, 2005. The respondent's case manager at MPA testified that although respondent participated in the treatment program, she did not comprehend the need to take ownership of her actions by making corrections to improve her behavior. A foster care worker testified to a series of events which indicate the following barriers to reunification were still present: parenting skills, housekeeping skills, and anger management. Respondent's husband also testified that he left the home because of respondent's abuse of him and the children. The boys' foster mother testified that after visits with respondent, she observed extreme behavior from the boys such as nightmares and tantrums. Family members of respondent, as well as respondent testified on her behalf. However, the trial court found that the grounds for termination were established by clear and convincing evidence and termination of respondent mother's parental rights was in the best interests of the children.

## II. TERMINATION OF PARENTAL RIGHTS

### A. Standard of Review

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). The trial court's decision is reviewed under the clearly erroneous standard. MCR 3.977(J); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005). In applying the clearly erroneous standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

### B. Analysis

The trial court did not clearly err by finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller supra* at 337. The principle conditions that led to adjudication were the deplorable condition of the home,

respondent's deficient parenting skills, and domestic violence between respondent and her husband.<sup>1</sup> Although the condition of the home was acceptable at the time of the termination trial, there was ample evidence that respondent was not able to substantially improve her parenting skills, despite completing parenting class three times. The evidence indicated that respondent struggled with the concepts presented in parenting class and, even when able to verbalize them, did not implement them. During parenting time, respondent did not respond to the most obvious of cues from the children, such as crying when placed on a pointy object for diapering, or an invitation to join in a pretend meal. The foster care worker would have to constantly reiterate common sense directions, such as keeping dirty objects from the children's mouths. Respondent attempted to diaper Spencer during a visit and, after ten minutes of struggle, had not managed to remove his pants. Respondent, on appeal, attributes her difficulty diapering Spencer to her physical disability, a partial limitation of the use of one arm caused by cerebral palsy on one side of her body. However, given testimony that she is able to accomplish her own self care, and is able to successfully perform at a job involving various tasks such as envelope stuffing, packaging, placing stickers and lifting pallets, it is clear that the primary difficulty is not in the physical aspects of diaper changing but in the management of the child. The evidence that respondent has failed to substantially benefit from three series of parenting classes and repeated instruction during parenting time, indicates that she is unlikely to substantially improve these skills within a reasonable time. MCL 712A.19b(3)(c)(i). Respondent argues that the domestic violence that was a condition of adjudication has been alleviated by her separation from Mr. Brissette. However, the underlying problem of respondent's anger management has not been resolved, as demonstrated by the May 2005 incident in which she screamed and swore at her case manager and picked up a telephone in such a manner that the manager was afraid respondent was going to throw it at her. Respondent was taking anger management classes at that time. Where respondent's explosive temper and propensity for physical aggression were not rectified by anger management classes, it is reasonable to conclude that this condition of adjudication will not be rectified within a reasonable time. This is especially so given evidence that respondent did not consistently take prescribed medication that would assist in calming her moods. Therefore, the trial court did not clearly err by terminating respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i).

The trial court also did not clearly err by finding that respondent, without regard to intent, failed to provide proper care and custody for the children and would not be able to do so within a reasonable time. MCL 712A.19b(3)(g). Respondent clearly failed to provide proper care and custody for the children by allowing the home to be in deplorable condition with feces throughout and by bringing Christopher to daycare covered in vomit and without alternate clothes. Despite completing parenting classes three times, respondent has not gained the ability to meet the basic needs of the children. Respondent's own testimony at the termination trial indicates that she does not take responsibility for controlling her anger, as she described Mr. Brissette making her so angry that she accidentally lifted Christopher by the hair and moved him

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<sup>1</sup> At the time of the termination trial, respondent was separated from her husband, James Brissette, who indicated that he would seek divorce. Mr. Brissette voluntarily relinquished his parental rights to Spencer and is not a party to this appeal. Likewise John Hill, the father of Christopher, voluntarily relinquished his parental rights and is not a party to this appeal.

a distance of one foot. Where respondent demonstrated that she has not gained the ability to control her anger and where she does not take responsibility for it, it is reasonable to conclude that she will continue to behave similarly in the future. Respondent's failure to consistently appear for her job at Do-All, an assisted employment service, also places her ability to provide for the children in serious question and highlights the lack of insight that was a persistent feature of this case. Respondent testified that she felt she was ready to work in the open market, but she displayed difficulty taking responsibility for her work attendance only two months before the termination trial. Considering all of this evidence, we conclude that the trial court did not clearly err by finding that there was no reasonable likelihood that respondent would be able to provide proper care and custody for the children within a reasonable time considering their ages.

### III. BEST INTERESTS OF THE CHILD

#### A. Standard of Review

Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the child's best interests is reviewed for clear error. *Id.* at 356-357. A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

#### B. Analysis

The trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the children. MCL 712A.19b(5). Through no fault of her own, respondent has failed to benefit from parenting classes or from anger management classes and appears to lack the ability to benefit there from. Both of the children showed serious negative behaviors after visits with respondent; those behaviors ceased when the children stopped visiting with respondent. Christopher's speech, which was severely delayed, has shown extreme improvement in foster care. Spencer has stopped having the extreme tantrums that would occur after visits with respondent and now has tantrums appropriate to his age. On this record, we find no indication that the trial court erred by concluding that termination would not be clearly contrary to the best interests of the children.

Affirmed.

/s/ Patrick M. Meter  
/s/ William C. Whitbeck  
/s/ Bill Schuette