

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

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In the Matter of CORY J. LABONTE, Minor.

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

Petitioner-Appellee,

v

LINDA PETERSON,

Respondent-Appellant.

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UNPUBLISHED  
September 15, 2005

No. 260921  
Delta Circuit Court  
Family Division  
LC No. 03-000131-NA

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In the Matter of ZACHARY JOSEPH SEXTON,  
Minor.

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

Petitioner-Appellee,

v

LINDA PETERSON and LESTER SEXTON,

Respondents-Appellants.

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No. 260922  
Delta Circuit Court  
Family Division  
LC No. 03-000132-NA

Before: Smolenski, P.J., and Murphy and Davis, JJ.

PER CURIAM.

Respondents appeal as of right from the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j).<sup>1</sup> We affirm.

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<sup>1</sup> Only respondent Peterson's parental rights were terminated under § 19b(3)(c)(i).

The petitioner must establish a statutory ground for termination under MCL 712A.19b(3) by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once the court finds that a statutory ground for termination has been established, MCL 712A.19b(5) requires that it terminate the respondent's parental rights to the child unless it finds that termination is clearly not in the child's best interests. *Id.* at 364-365. This Court reviews decisions terminating parental rights for clear error. *Id.* at 356-357. A trial court's decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record 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).

With respect to respondent Peterson, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. The evidence indicated that respondent Peterson left her children with respondent Sexton, who had not established paternity and had no legal rights to the children, and failed to return. Additionally, she failed to attend to Zachary's medical needs, frequently changed residences, made poor housing choices, and did not have a suitable income. At the time of the termination hearing, her living situation was still unstable, she had no employment, and her income was minimal and insufficient to support her children. Respondent was given several months to address these issues but failed to make progress with her case service plan. The trial court did not clearly err in terminating respondent Peterson's parental rights to her children.

Nor did the trial court clearly err in terminating respondent Sexton's parental rights to Zachary. Respondent was afforded opportunities to visit with and care for Zachary during the pendency of this action, but delegated his childcare responsibilities to others, placed his own interests ahead of Zachary's, failed to visit with Zachary after March 2004, and failed to provide financial support for either Zachary or his other child with respondent Peterson. Additionally, the evidence clearly and convincingly supported an inference that respondent Sexton would continue to associate with respondent Peterson and allow her to be involved with Zachary. Considered in conjunction with Zachary's special medical needs, the trial court did not clearly err in finding that there was no reasonable expectation that respondent Sexton would be able to provide proper care and custody within a reasonable time considering Zachary's age, and that there was a reasonable likelihood Zachary would be harmed if returned to respondent Sexton.

Finally, the evidence did not clearly show that termination of respondents' parental rights was not in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 356-357. Thus, the trial court did not err in terminating respondents' parental rights to the children.

Affirmed.

/s/ Michael R. Smolenski

/s/ William B. Murphy

/s/ Alton T. Davis