

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

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In the Matter of CAITLYNN HOPE GIBSON,  
KERSTEN FAITH GIBSON, CULLEN JACOB  
GIBSON, and KWENTIN ISAAH GIBSON,  
Minors.

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

UNPUBLISHED  
February 28, 2006

Petitioner-Appellee,

v

ROSEMARY JEN GIBSON,

No. 262103  
Eaton Circuit Court  
Family Division  
LC No. 03-014887-NA

Respondent-Appellant,

and

JACOB GIBSON,

Respondent.

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Before: Wilder, P.J., and Zahra and Davis, JJ.

PER CURIAM.

Respondent-appellant Rosemary Jen Gibson appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

I. Basic Facts and Procedure

Petitioner has received referrals, since 1995, concerning respondent-appellant. The referrals alleged parental neglect of minor children.<sup>1</sup> The four children at issue in this appeal were removed from respondent-appellant's care in September, 2003, after police found

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<sup>1</sup> Respondent-appellant's four older children from a prior relationship are not at issue in this appeal.

the two youngest children, then ages one and three, playing unattended in the street outside their home. The children were allowed to venture outside by respondent-appellant's five-year-old child, whom respondent-appellant let supervise the younger siblings. Respondent-appellant admitted to various allegations of neglect with regard both to the minor children at issue in this appeal as well as to her older, minor children from her previous relationship. As such, the court assumed jurisdiction over the children. Respondent-appellant and respondent<sup>2</sup> made some progress towards improving their lives and that of the children, e.g., engaging in substance abuse treatment, classes in parent skills, mental health therapy and family counseling. Upon a satisfactory showing of progress, including a caseworker's positive recommendation, the court ordered that the children be returned to their home. Approximately two months later, however, after the caseworker expressed concern that respondent-appellant continued to display the same problematic behaviors she had in the past and that her emotional stability had worsened, the court ordered that the children be removed from the parents' care. Thereafter, petitioner filed a supplemental petition requesting the court to terminate respondent-appellant's parental rights. At the termination proceedings, the testimony showed that, although respondent-appellant had addressed her substance abuse issue, respondent-appellant's parenting ability had not improved sufficiently to ensure that the children would be safe and properly cared for if returned to her custody, despite extensive services to assist her. This appeal followed.

## II. Analysis

While we recognize the collective anguish caused by respondent-appellant's failures as a parent, such emotional suffering – even though substantial in this case as well as in others – must give way to plain analysis under the laws of this state, which laws are enacted to protect the interests of children like those in this case. As such, our analysis must ascertain whether respondent-appellant is now or will likely be in a reasonable period of time, given the ages of the children, capable of fulfilling her duties as a parent. Respondent-appellant argues on appeal that her parental rights should not be terminated because she was making progress to become a better provider, including successfully completing substance abuse treatment; and the strong psychological and emotional bond between herself and the children would be damaged or destroyed by termination of her parental rights and, therefore, not in the children's best interests. We disagree.

### A. Standard of Review

In an appeal of a trial court's decision to terminate parental rights, this Court reviews for clear error "both the court's decision that a ground for termination has been proved by clear and convincing evidence and, where appropriate, the court's decision regarding the child's best interest." *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). 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, reh den 468 Mich 1239 (2003), citing *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, to be clearly erroneous the decision must be "more than just maybe or probably

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<sup>2</sup> Respondent is not a party to this appeal.

wrong.” *In re Trejo, supra*, 462 Mich 356, quoting *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520, reh den 460 Mich 1205 (1999).

### B. Termination of Parental Rights

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 Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). “Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child’s best interests.” *In re Trejo, supra*, at 354; MCL 712A.19b(5).

In this case, we find that termination was appropriate under subsection MCL 712A.19b(3)(c)(i) because the evidence showed that, by the time of the termination trial (almost one year since the court entered its dispositional order), respondent-appellant’s lack of parenting ability, a condition that led to the court’s jurisdiction over her children, remained hazardous to the children’s emotional and physical safety and that it would likely not be rectified within a reasonable time considering the children’s ages. Despite numerous services provided to respondent-appellant during a 16-month period after the children’s removal and services provided to assist the family for several years before their removal, the testimony showed that respondent-appellant never consistently demonstrated an ability to properly care for the children during the proceedings.

We find significant the testimony by service providers who indicated that respondent-appellant continued to exhibit problematic behavior similar to what she had displayed in the past, including a failure to supervise the children, detachment or isolation from the children, and frustration and emotional instability that appeared to worsen when the children were returned to her home during these proceedings. Almost every service provider who assisted the family during these proceedings expressed an overwhelming concern that respondent-appellant would not be able to act appropriately for the children and that respondent-appellant was diagnosed with a personality disorder that would likely impede her ability to improve her parenting ability within a reasonable time. The evidence clearly established that respondent-appellant would likely not be able to rectify her parenting deficiencies within a reasonable time considering the children’s ages. Accordingly, the trial court did not clearly err in finding grounds for termination under subsection MCL 712A.19b(3)(c)(i).

We also find that the trial court did not clearly err in finding grounds for termination of respondent-appellant’s parental rights under MCL 712A.19b(g) and (j). Testimony showed that without addressing her parenting deficiencies respondent-appellant remained unable to provide proper care or custody for her children, and, most significantly, the children remained at a risk of emotional and physical harm if returned to her care.

Further, we find that, considering the whole record, the evidence regarding the children’s best interests did not mitigate against termination. *Trejo, supra* at 356-357. The evidence of a bond between respondent-appellant and the children did not “clearly overwhelm” respondent-appellant’s serious lack of parenting ability, which detrimentally affected her children’s emotional well-being and would likely not be rectified in the foreseeable future. *Trejo, supra* at

364. Therefore, the trial court did not clearly err in terminating respondent-appellant's parental rights to the children. *Id.* at 356-357.<sup>3</sup>

Affirmed.

/s/ Kurtis T. Wilder

/s/ Brian K. Zahra

/s/ Alton T. Davis

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<sup>3</sup> We note that respondent-appellant's contention on appeal that she did not receive proper assistance from the caseworker throughout these proceedings, which impeded her progress towards reunification, was not properly presented for review by this court as she did not raise it in her "Statement of Questions Presented." *McGoldrick v Holiday Amusements Inc*, 242 Mich App 286, 298; 618 NW2d 98 (2000); MCR 7.212(C)(5). Regardless, her argument is without merit because the testimony indicated that numerous services were provided to the family before and during these proceedings. Further, the caseworker's recommendation that the children be returned to respondent-appellant's home during the proceedings also shows that the caseworker was assisting her with reunification efforts, not deterring it.