

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

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In the Matter of K. ANDERSON, Minor.

UNPUBLISHED  
October 29, 2013

No. 314912  
Bay Circuit Court  
Family Division  
LC No. 11-010952-NA

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Before: **SERVITTO, P.J.**, and **WHITBECK** and **OWENS, JJ.**

PER CURIAM.

Respondent appeals by right from the order of the trial court terminating respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons outlined below, we affirm.

**I. FACTS**

Respondent is the maternal grandmother of KA, d/o/b 1/28/03, and adopted him on December 20, 2004, after her daughter, KA's birth-mother, signed over her parental rights due to drug abuse and inability to provide care. On September 2, 2011, a petition was filed with child protective services alleging that a police raid had been executed at respondent's home, and that large amounts of heroin and marijuana, as well as materials for weighing and packaging those drugs, had been recovered from the house. The petition also alleged that respondent's daughter lived in the home, and smoked marijuana in front of KA. The petition also alleged that respondent admitted that the man she paid to be her chore provider was selling drugs out of the house, as was respondent's daughter's boyfriend, who also used marijuana and heroin in the house.

The petition further alleged that KA had been subject to physical abuse, and had been sexually acting out. The petition further alleged that respondent admitted to knowing about the drug use, drug sales, and abuse. The petition also alleged that respondent herself sold her pain medication. At the adjudication hearing, respondent entered a plea to the allegations in the petition; however, she denied selling or giving away her prescription medication, and denied being responsible for KA continuing to share a room with his younger half sister after he had allegedly sexually acted out with her.

Over the next several months, respondent participated in numerous services, but the court continued to recommend that KA not be returned to respondent, as she had failed to demonstrate

any benefit from those services. Eventually, the goal was changed from reunification to termination, and a termination hearing was scheduled.

At that hearing, experts testified that respondent loved KA and that the two shared a significant bond, but that respondent had not benefitted from the services provided to her, and lacked the skills necessary to protect either herself or KA. Particular attention was given to respondent's history of allowing dangerous individuals to come into and dominate her life, and testimony was offered that established that respondent's daughter had moved back in with respondent, and that allegations of drug use in respondent's home had been made against respondent's daughter and her new husband.

At the conclusion of the hearing, the trial court found that statutory grounds for termination had been established under MCL 712A.19b(3)(c)(i), (g), and (j). The trial court also found that, despite the bond between respondent and KA, termination of respondent's parental rights was in the child's best interest. This appeal followed.

## II. STANDARD OF REVIEW

A lower court's decision to terminate parental rights is reviewed for clear error. *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). A decision is clearly erroneous if, though there is some evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Pardee*, 190 Mich App 243, 250; 475 NW2d 870 (1991). We also review a lower court's determination that termination is in a child's best interests for clear error. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

## III. ANALYSIS

First, respondent argues that the trial court erred by finding that the statutory grounds for termination in MCL 712A.19b(3)(c)(i), (g), and (j) had been met. We disagree.

MCL 712A.19b(3) reads as follows, 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:

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(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.

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(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.

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(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.

Here, the initial petition was filed because the child in question's birth mother was living in respondent's home and, along with the birth mother's boyfriend, was operating a drug distribution operation out of the house. At the time of the termination hearing, the record shows that the birth mother, who is also respondent's daughter, is still living in respondent's home, along with her new husband. The record also shows that allegations of drug use and possession have continued to be made against the birth mother and her new husband. Further, the record shows that the birth mother has exercised considerable control over respondent in the past, and witnesses testifying at the termination hearing expressed concerns that such domination was likely to continue in the future. Given the above facts, as well as the fact that the child in question is already ten years old, it was not clearly erroneous for the trial court to conclude that the circumstances leading to adjudication were still present and were unlikely to be remedied in a reasonable period of time. Accordingly, we affirm the trial court's determination concerning MCL 712A.19b(3)(c)(i).

Respondent also argues that the lower court erred by finding that the statutory grounds for termination in MCL 712A.19b(3)(g) had been met. Here, the record shows that, despite respondent's best intentions and thorough compliance with the case service plan, respondent still allows the child in question, as well as her daughter and her daughter's husband, to control and manipulate her. Expert testimony also showed that this tendency to cede control to others compromises respondent's ability to protect both herself and the child in question. Given these facts, as well as the fact that the child in question is already ten years old, it was not clearly erroneous for the trial court to conclude that respondent would not be able to provide proper care and custody for the child in question within a reasonable period of time. Accordingly, we affirm the trial court's determination concerning MCL 712A.19b(3)(g).

Next, respondent argues that the lower court erred by finding that the statutory grounds for termination in MCL 712A.19b(3)(j) had been met. Here, there was substantial circumstantial evidence presented at the termination hearing that the child in question had been sexually abused, and ample evidence was presented that showed that respondent's home was routinely occupied and controlled by abusive individuals engaged in criminal behavior. The record also showed that respondent had been slow to remove such individuals from her home, even after being ordered to do so, and that she was once again allowing her daughter to live in the home. There was also expert testimony offered at the hearing which stated that respondent was unable to protect herself from harm, much less a child in her care. Given these facts, it was not clearly erroneous for the trial court to conclude that there was a reasonable likelihood that the child

would be harmed if he was returned to respondent's home. Accordingly, we affirm the trial court's determination concerning MCL 712A.19b(3)(j).

Finally, respondent argues that the trial court erred by finding that termination was in the best interest of the child in question. Again, we disagree.

MCL 712A.19b(5) reads as follows:

(5) 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.

There is no bright-line rule for determining what is in a child's best interests, rather the record as a whole must be considered. *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000).

Here, the record shows that the child in question is deeply bonded to respondent, and that termination would be emotionally devastating for him. However, the record also shows that the child has been raised in an unstable and dangerous home that was only mildly improved through respondent's compliance with the case service plan. The record shows that respondent's home was and is occupied by dangerous individuals, and that respondent lacks the ability to protect the child from those individuals, and frequently concedes parenting responsibilities to those same individuals. Accordingly, taking the record as a whole, the trial court's determination that the child's need for safety outweighed the bond between the child and respondent was not clearly erroneous.

Affirmed.

/s/ Deborah A. Servitto  
/s/ William C. Whitbeck  
/s/ Donald S. Owens