

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* JACKSON/JACKSON-LETT, Minors.

UNPUBLISHED  
June 21, 2016

No. 329450  
Wayne Trial Court  
Family Division  
LC No. 14-515926-NA

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*In re* J. K. AARON, Minors.

No. 330760  
Wayne Trial Court  
Family Division  
LC No. 14-515926-NA

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Before: M. J. KELLY, P.J., and CAVANAGH and K. F. KELLY, JJ.

PER CURIAM.

In these consolidated appeals, respondent J. Jackson appeals as of right two orders terminating her parental rights. In Docket No. 329450, respondent appeals an order terminating her parental rights to DJ, KJ, YJ, and LJL, pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). In Docket No. 330760, respondent appeals a later order terminating her parental rights to JA under MCL 712A.19b(3)(g), (i), (j), and (l). We affirm.

I. DOCKET NO. 329450

Respondent argues that petitioner failed to clearly and convincingly establish any of the alleged statutory grounds for termination. Respondent further argues that the trial court erred in finding that termination of her parental rights was in the children’s best interests. We reject both arguments.

Petitioner bears the burden of proving a statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once petitioner has proven a statutory ground, the trial court must order termination if “termination of parental rights is in the child’s best interests.” MCL 712A.19b(5). This Court reviews for clear error a trial court’s decision to terminate parental rights. MCR 3.977(K). The clear error standard controls this Court’s review of “both the court’s decision that a ground for termination has been proven by clear and convincing evidence and . . . the court’s decision regarding the child’s best interest.” *In re Trejo*, 462 Mich at 356-357. A decision qualifies as

clearly erroneous when, “although there is evidence to support it, the reviewing court on the entire evidence 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). Clear error signifies a decision that strikes this Court as more than just maybe or probably wrong. *In re Trejo*, 462 Mich at 356 (citation omitted). This Court “give[s] deference to the trial court’s special opportunity to judge the credibility of the witnesses.” *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

#### A. STATUTORY GROUNDS

The trial court did not err in concluding that clear and convincing evidence supported termination of respondent’s parental rights under MCL 712A.19b(3)(c)(i), which is permitted if at least 182 days elapsed since an initial dispositional order and it was established by clear and convincing evidence that 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.” Approximately 15 months elapsed between the trial court’s entry of the initial dispositional order and the termination hearing. In May 2014, respondent admitted the allegations in a March 2014 amended petition. Respondent admitted that she had left YJ, LJL, and LJL’s infant twin sister in the care of their maternal grandmother, knowing that the grandmother had lost her parental rights to her own children, including respondent, and knowing that the grandmother had been diagnosed with schizophrenia and had recently stopped taking her medication. In addition, the grandmother had notified respondent of the infant child’s death by calling her at a casino, and respondent had no appropriate, stable housing for the children, had not enrolled DJ in school, and occasionally smoked marijuana. In early May 2014, the trial court ordered respondent to attend a psychological evaluation and supervised parenting times, “participate in individual therapy, complete parenting classes, participate in a substance abuse assessment as well as weekly random drug screens, obtain and maintain suitable housing, obtain a legal source of income, maintain contact with the agency . . . and comply with all court orders.”

Clear and convincing evidence established that the conditions leading to the children’s May 2014 adjudication continued to exist in August 2015, with no reasonable likelihood of their rectification within a reasonable time. Although respondent attended parenting classes and coaching sessions, she failed to show that she had substantially benefited from them. Caseworker Rhiannon Pniewski and Kimberly Edwards, respondent’s one-on-one parenting time coach, agreed that as the proceeding progressed, respondent inconsistently showed improvement in managing and supervising the children. Pniewski described most of respondent’s parenting times as chaotic and unstructured, in part because she struggled to discipline the children, frequently used “electronics to entertain them rather than interact with them,” discussed inappropriate topics, including “gossiping about family members and speaking to them about her sister who had passed away,” and yelled at the children. Pniewski routinely offered respondent advice for redirecting the children, and respondent usually listened to the redirection, but then returned “to the same behaviors the next week.”

Edwards testified that between November 2014 and April 2015, she worked as respondent’s supportive parenting time coach to improve her interaction with the children, use of proper discipline, and proper management of the parenting times. For the first 12 parenting times, Edwards supervised respondent’s parenting of all four children. For the next 12 weeks, Edwards supervised separate, one-hour parenting times with the two boys, then the two girls.

When respondent met with all four children, the parenting times lacked structure, was chaotic, and the children and respondent were loud. Edwards recalled that respondent only sometimes seemed engaged with the children, and other times sat in a chair, looked at the children, and joked with them, “but not . . . like a nurturing type environment.” Respondent positively accepted Edwards’s suggestions, sometimes redirected the children well, but often reverted to a lack of supervision. Respondent discussed inappropriate topics with the children, like the children’s fathers, how she and the children would arrange the children’s bedrooms, and her boyfriend.

Concerning the 12 separate parenting time visits with the boys and the girls, respondent initially demonstrated improved supervision, including helping the children with homework, not yelling at the children, and imposing appropriate discipline. However, respondent often exhibited her usual lack of supervision, including not seeing LJJ place objects in her mouth, ignoring YJ’s pleas for attention, ignoring YJ’s departures from the room, and yelling at the boys if they received bad reports from school. She also did not interact at all with the children at times. KJ and YJ shared a bond, but Edwards denied detecting a filial bond among the other children. After 24 weeks, Edwards believed that respondent needed more coaching regarding how her housing, substance abuse, employment, and current boyfriend affected her parenting capability, even though they had discussed many of these concerns.

The concerns regarding respondent’s improper housing and substance abuse still existed at the termination hearing. Respondent lived with an unidentified boyfriend in a one-bedroom apartment, which Pniewski characterized as unsuitable. Respondent reported recently obtaining employment, but had not provided verification. A psychological evaluation diagnosed respondent with a mood disorder and recommended that she complete individual therapy. At the time of the termination hearing, respondent still had not successfully completed individual therapy. Although respondent regularly attended substance abuse therapy, she still used marijuana. Out of 56 requested drug screens, respondent failed to appear or tested positive for marijuana 35 times. In March 2015, respondent acknowledged having consumed “Ready Clean” to try flushing “drugs . . . out of her system.”

The evidence also established that there was no reasonable likelihood that respondent might improve her parenting skills within a reasonable time. A decision regarding a reasonable time for improvement “appropriately focuse[s] not only on how long it would take respondent to improve her parenting skills, but also on how long her . . . children could wait for this improvement.” *In re Dahms*, 187 Mich App 644, 648; 468 NW2d 315 (1991). The children had spent approximately 16 months as temporary court wards, and they urgently needed permanency and stability. KJ had language and speech delays, one child took medication for nocturnal bedwetting, DJ and KJ had attention deficit hyperactivity disorder (ADHD), and DJ and KJ took prescription medication.

Respondent achieved minimal progress in the areas of primary concern: her inability to properly parent the children, her lack of appropriate housing, and her history of substance abuse. In light of the record evidence, the trial court did not clearly err when it concluded that clear and convincing evidence supported termination of respondent’s parental rights under MCL 712A.19b(3)(c)(i). The conditions leading to adjudication continued to exist with no reasonable likelihood that they would be remedied within a reasonable time considering the children’s ages.

Because only one statutory ground must be established by clear and convincing evidence, *In re HRC*, 286 Mich App at 461, we need not address whether the trial court clearly erred in finding that MCL 712A.19b(3)(g) and (j) were established; nevertheless, we conclude that the trial court did not clearly err.

## B. BEST INTERESTS

“Even if the trial court finds that the [petitioner] has established a ground for termination by clear and convincing evidence, it cannot terminate the parent’s parental rights unless it also finds by a preponderance of the evidence that termination is in the best interests of the children. MCL 712A.19b(5).” *In re Gonzales/Martinez*, 310 Mich App 426, 434; 871 NW2d 868 (2015). In *In re White*, 303 Mich App 701, 713-714; 846 NW2d 61 (2014), this Court summarized:

The trial court should weigh all the evidence available to determine the children’s best interests. To determine whether termination of parental rights is in a child’s best interests, the court should consider a wide variety of factors that may include 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. The trial court may also consider a parent’s history of domestic violence, the parent’s compliance with his or her case service plan, the parent’s visitation history with the child, the children’s well-being while in care, and the possibility of adoption. [Citation and quotation marks omitted.]

The trial court did not clearly err in finding that termination of respondent’s parental rights was in the children’s best interests. While there was some evidence of a loving bond existing between respondent and the children, respondent inconsistently showed affection for the children at parenting times even after participating in parenting classes and 24 weeks of parental coaching. Respondent also demonstrated inconsistent and insubstantial improvement in her ability to supervise the children. The children had spent more than 16 months in foster care, and the two oldest children took prescription medication for ADHD. The children had strong needs for finality, permanency, and stability. The two oldest children’s special needs improved in the care of their foster parents, who expressed a willingness to adopt them. The other children’s foster parents also planned to adopt them. The trial court did not clearly err in finding that termination of respondent’s parental rights was in the children’s best interests.

## II. DOCKET NO. 330760

In a separate appeal from the subsequent order terminating her parental rights to JA, respondent similarly argues that the record did not clearly and convincingly establish any statutory ground for termination. We again disagree.

### A. STATUTORY GROUNDS

The trial court did not err in concluding that clear and convincing evidence supported termination of respondent’s parental rights under MCL 712A.19b(3)(g), which is permitted if “[t]he 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.” In November 2015, respondent pleaded

no contest to the allegations that in August 2015 she lost her parental rights to JA's four siblings, and used marijuana during her pregnancy with JA. Respondent's no contest plea to having lost her parental rights to JA's older siblings and continued abuse of marijuana during her pregnancy with JA clearly and convincingly proved that she failed to provide proper care and custody for JA.

Foster care worker Christina Adamic testified regarding respondent's admissions to the allegations in the permanent custody petition concerning JA. After reviewing respondent's CPS history, loss of parental rights, and a recent Clinic for Child Study evaluation, Adamic opined that the same concerns continued to exist. Adamic specified that the concerns included "the lack of bonding; the lack of interaction with the children; the instability; the continued substance abuse; and . . . possible mental health issues." And respondent never provided Adamic with a valid home address. Foster care worker Candace Marshall also testified that respondent declined an offer to inspect her home. And while respondent appropriately interacted with JA during supervised parenting times, Marshall recommended that the trial court terminate respondent's parental rights because her rights to JA's siblings had been terminated and she had an ongoing substance abuse problem.

For approximately 15 months before the August 2014 termination hearing involving JA's siblings, petitioner provided respondent services. Clear and convincing evidence established that despite respondent's participation in parenting classes and an extended series of one-on-one parental coaching, respondent demonstrated minimal improvement in her parenting skills. Clear and convincing evidence also showed that respondent had made minimal progress in addressing her substance abuse, and had no suitable housing. At the time of the termination hearing, respondent also had not successfully completed individual therapy to address her mood disorder.

Before JA's birth, respondent had approximately 15 months to participate in and benefit from services. Respondent made only minimal progress toward improving her parenting skills, addressing her substance abuse, and locating an appropriate home. In light of JA's very young age, respondent's concession that she had smoked marijuana during her pregnancy with JA, and had no specific potential housing, there was no reasonable expectation that she might rectify her parental shortcomings within a reasonable time. See *In re LE*, 278 Mich App 1, 28; 747 NW2d 883 (2008); *In re Dahms*, 187 Mich App at 648. Accordingly, the trial court did not err in concluding that clear and convincing evidence supported termination of respondent's parental rights under MCL 712A.19b(3)(g). Again, because only one statutory ground must be established by clear and convincing evidence, *In re HRC*, 286 Mich App at 461, we need not address whether the trial court clearly erred in finding that MCL 712A.19b(3)(i) and (j) were established; nevertheless, we conclude that the trial court did not clearly err.<sup>1</sup>

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<sup>1</sup> Although the trial court also terminated respondent's rights under MCL 712A.19b(3)(l) and in the case of *In re Gach*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (2016) (Docket No. 328714); slip op at 6, this Court held that subsection (l) violated the Due Process clauses of the federal and state constitutions, such error is harmless because termination was proper under other statutory grounds. See *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

## B. BEST INTERESTS

Respondent also argues that termination was not in the child's best interests because she testified that she loved JA. But JA only saw respondent during several supervised parenting times, thus he likely lacked a strong bond with respondent. And seven weeks before JA's birth, respondent participated in services for approximately 15 months, but made minimal progress toward addressing her lack of parenting skills or substance abuse. She also acknowledged smoking marijuana while pregnant with JA. Because of his very young age, JA had substantial needs for finality, permanency, and stability. Adamic concluded that termination of respondent's parental rights would serve JA's best interests by allowing an opportunity for long-term stability. And JA's current foster parents planned to adopt JA. The trial court's decision was not clearly erroneous. See *In re White*, 303 Mich App at 713.

Affirmed.

/s/ Michael J. Kelly  
/s/ Mark J. Cavanagh  
/s/ Kirsten Frank Kelly