

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
July 17, 2012

In the Matter of E. M. MONTANEZ, Minor.

No. 307908; 307909  
Oakland Circuit Court  
Family Division  
LC No. 11-784286-NA

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Before: MURRAY, P.J., and FORT HOOD and BORRELLO, JJ.

MEMORANDUM.

In this consolidated appeal, respondents appeal by right the trial court order holding that termination of parental rights was in the minor child's best interests, MCL 712A.19b(5). We affirm.

In Docket No. 307908, respondent-father argues that petitioner should have attempted to reunify him with the child and provide him with services. Both respondents argue that the trial court erred in determining that it was in the child's best interests to terminate their parental rights. We disagree.

In termination cases, this Court reviews the trial court's findings of fact and best interest rulings for clear error. *In re LE*, 278 Mich App 1, 18, 29; 747 NW2d 883 (2008). This Court may only set aside these findings if it "is left with a definite and firm conviction that a mistake has been made." *Id.* at 18. When a statutory ground for termination is proven, the trial court shall order termination of parental rights if termination of parental rights is in the child's best interests in light of the evidence as set forth in the whole record. *Id.* at 25; MCL 712A.19b(5). When determining the best interests of a child in a termination case, a trial court can consider the respondent's past history, psychological evaluation, inappropriate parenting techniques during parenting time, family bonding, an inability or unwillingness to participate in counseling, the child's age, the child's progress following removal, and possibility for adoption. *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009); *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001).

"In general, petitioner must make reasonable efforts to rectify conditions, to reunify families, and to avoid termination of parental rights." *In re LE*, 278 Mich App at 18. Petitioner made reasonable efforts to reunify respondent-father with the child. However, the department

was limited in its ability to provide services because of defendant's lengthy incarceration until at least 2029.<sup>1</sup> Although petitioner examined the possibility of relative placement, it concluded that the child would not be protected in that environment, and the trial court agreed. In light of the lengthy period of incarceration and the inability to provide a suitable relative placement, we cannot conclude that petitioner failed to make reasonable efforts under the circumstances, and the trial court did not clearly err in its ruling that termination was in the child's best interests. *LE*, 278 Mich App at 18, 29.

We also cannot conclude that the trial court clearly erred in its conclusion that termination of respondent-mother's parental rights was in the best interests of the minor child. *Id.* Respondent-mother's parental rights to four other children had been terminated due to child abuse or respondent-mother's failure to protect the children from abuse. She failed to acknowledge the prior termination and failed to benefit from the services provided. Accordingly, we cannot conclude that the trial court clearly erred.

Affirmed.

/s/ Christopher M. Murray  
/s/ Karen M. Fort Hood  
/s/ Stephen L. Borrello

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<sup>1</sup> Respondent-father's convictions are being challenged on appeal in this Court.