

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

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In the Matter of MALAYAH MARIE ERSKINE,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CHRISTOPHER MICHAEL TAYLOR,

Respondent-Appellant,

and

CASSANDRA MARIE PATTON,

Respondent.

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UNPUBLISHED  
February 28, 2008

No. 280379  
Calhoun Circuit Court  
Family Division  
LC No. 2006-002478-NA

Before: Whitbeck, P.J., and Jansen and Davis, JJ.

PER CURIAM.

Respondent-appellant Christopher Taylor appeals as of right from the trial court order terminating his parental rights to Malayah Erskine pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j).<sup>1</sup> We affirm.

**I. Basic Facts And Procedural History**

In July 2006, petitioner obtained an order to take Malayah into protective custody pending a preliminary hearing on the ground that Malayah's mother, Cassandra Patton, was asked to leave sheltered housing where she had been staying due to unruly conduct. Petitioner also filed a petition alleging neglect. At the time the petition was filed, Taylor was the putative father of Malayah; however, paternity tests later identified Taylor as Malayah's father. Also, at

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<sup>1</sup> MCL 712A.19b(3)(c)(i) (conditions that led to the adjudication continue to exist and there is not reasonably likelihood of rectification), (c)(ii) (new conditions exist that have not been rectified), (g) (failure to provide proper care and custody), and (j) (child would likely be harmed if returned to the parent). The order also terminated Cassandra Patton's parental rights; however, Patton is not a party in this appeal.

the time the petition was filed, Taylor was incarcerated in the Lakeland Correctional Facility. Taylor explained that he was sent to prison after he violated probation with a drug charge in September 2004. Taylor was released from prison in October 2006.

Taylor was shot on December 24, 2006. He was hospitalized for two days, and he had three bullets in his hip area. Although Taylor said he did not know who shot him, his parole officer believed he knew the gunman. Foster care worker Alisha Knotts opined that the identity of the assailant was important in protecting Malayah should she be allowed to leave on a visit with Taylor.

Knotts indicated that she attempted to work with Taylor to address concerns of substance abuse by scheduling random drug screens for him. Taylor was expected to submit drug screens four times a month. According to Knotts, Taylor tested positive for marijuana in December 2006, but he had not returned for scheduled drug screens between then and the date of a dispositional hearing in February 2007. Taylor was also required to submit drug screens to his parole officer two times a month. Taylor's parole officer said she was not having any problems in regard to Taylor's drug screens, and the screens had all been negative. However, at a dispositional review hearing in February 2007, Taylor admitted that he had a history of marijuana use. And he said that if he were tested that day (February 7, 2007), he would probably test positive.

Taylor missed 21 requested drug screens and completed seven. Taylor's drug screen on March 20, 2007, was dilute, and his screen from April 4, 2007, was negative. At a permanency planning hearing in May 2007, Knotts testified that Taylor had not been participating in substance abuse treatment. She explained that Taylor had completed a substance abuse assessment at SPGB Services in March 2007. Their recommendations were for biweekly individual sessions and group treatment once each week. But Taylor stopped participating in treatment on May 31, 2007. Taylor told Knotts he was not interested in working with SPGB Services because he felt that they were unfair to him. Taylor explained that he was upset with SPGB Services because they told him he had submitted a dilute screen even though all of the screens he had dropped for his parole officer were clean.

Knotts testified that Taylor missed ten of the 18 visitations with Malayah that were offered to him between October 2006 and February 2007. Knotts explained that she had advised Taylor of the importance of having a consistent relationship and visitation schedule. According to Knotts, Malayah had been very guarded and difficult to engage during visits at times when there had been lack of contact between Malayah and Taylor. Knotts explained that the inconsistency in parenting time made Malayah apprehensive at the beginning of visits when she had not seen Taylor. Knotts explained that Malayah did not even know Taylor before visitation sessions began because he had been in prison. Knotts stated that the visits Taylor attended had gone fairly well; she stated that during visits Taylor got down on the floor and played with Malayah. But Knotts opined that they did not really know one other. Taylor was referred to parenting classes to help him relate to Malayah and parent her appropriately. Between January and May, he missed only four of 14 visits. Malayah was excited to see him when he came consistently; however, separating was never difficult for her at the end of parenting time.

Knotts further testified that parenting classes were scheduled to begin December 13, 2006, but Taylor did not show for his appointed time. The following week, Knotts met with Taylor and made special arrangements for him to attend the classes on December 20, 2006. He

was supposed to attend early to make up the extra session but did not. Knotts did not speak to Taylor again until January 16, 2007. At the permanency planning hearing in May 2007, Knotts stated that she had not heard from Taylor in four weeks and that he had not participated in parenting time for the last five sessions. In August 2007, Knotts testified that parenting classes were set up two times and the first session was scheduled to begin in early 2007. At that time, Taylor informed Knotts that the drug screens requested by his parole officer were the same days as parenting time. Knotts advised Taylor that he needed to submit drug screens earlier so he could make it to class on time. Because Taylor did not attend, he was dropped from the class. Parenting classes were again set up for Taylor in May 2007. Taylor missed the first session and was able to make it up. He missed two sessions since that time and was unable to make up the following day's session because he would be in jail. He attended nine of the 12 classes that began on May 9. Taylor's parenting class instructor indicated that he was open and participated in class. She felt that if he continued to attend class and complete the necessary homework, he could have finished the class.

Taylor said he was willing to do counseling but he did not have reliable transportation so it was hard for him to get around sometimes. Knotts made free bus passes available to him. But Taylor stated that he was not willing to take a bus or walk to participate in services. Specifically, Taylor stated, "Bus pass or no bus pass I am not standing on the cold corner waiting for transportation for a bus. I have three bullets in my hip. I am not standing out there. And for one I have been shot four times and I am not standing on any corner outside anywhere waiting on nothing."

Knotts stated that Taylor was not employed. In February 2007, Taylor indicated that he was having difficulty finding a job. Taylor said that he was looking for work and that he hoped to get a job so that he could obtain his own car and driver's license. Taylor said he was still having medical difficulties from being shot. He said that he had trouble standing and sitting for lengthy amounts of time. Taylor said that his condition affected his employment prospects. However, he admitted that he had not applied for disability. In May 2007, Knotts testified that Taylor still did not have a job. In August 2007, Taylor said that he had filled out applications but believed he was unable to find a job because of his felony background. Taylor also claimed that he was unable to find employment because he was on crutches from injuries sustained when he was shot again in April 2007. Knotts testified that she did not believe Taylor had any income. Taylor said that he was living off of food stamps.

Taylor opined that he had all of the skills that he needed to be a father to Malayah. He did not believe he needed counseling but acknowledged that it might help him address his fears of being shot again. A psychological evaluation indicated that Taylor

will have difficulties maintaining a clear and stable environment for his children. He will become resentful of the ever changing demands parenthood places on him and likely defer responsibilities to external sources. He will have difficulty subjugating his needs for the needs of his child and will intellectualize and justify his behavior . . . . He may have difficulty having realistic expectations for his children's behavior and has little understanding of the demands a young child may place on him.

In May 2007, Knotts testified that Taylor was not participating in therapy. Knotts explained that Taylor had attended six counseling sessions but that they ended in early May because Taylor did not wish to continue services.

Taylor reported that he lived with his mother. Knotts visited their home in April 2007. Knotts noted that the mother's home was physically appropriate and that there was a bedroom for Malayah. However, Knotts was concerned because there were bullet holes in the residence from a shooting in the house in November 2006. Knotts was also concerned with Taylor's mother's lack of cooperation when questioned regarding allegations that another relative had sexually abused Malayah. Taylor's mother stated that she believed their neighborhood was safe. She had lived there almost 25 years and raised four children on that block. She said Taylor ran into some problems but she believed those problems had stopped. Taylor said that there was only one bullet hole in her basement and that she had offered to get Knotts the police report so she could understand what happened. Shots had only been fired in the home one time, on the day before Thanksgiving 2006. According to Taylor, the gunmen were shooting at the young man who had dropped Taylor off at home. When Taylor got shot in December 2006, it was not at her house.

Taylor violated parole on May 1, 2007; he was observed in a vehicle with another known parolee. When the police stopped the car, they found a large amount of drugs. Knotts believed Malayah would be at risk of neglect if reunification occurred with Taylor because he continued to be at risk for getting shot. Taylor also violated curfew and failed to notify his parole officer of contact with law enforcement. There was also concern that he was associating with a person who had a gun. That person had a permit to carry a concealed weapon, but it violated the conditions of Taylor's parole to associate with such persons.

Sandra Burdick, outreach counselor, stated that she was referred to work with Malayah in February 2007. According to Burdick, stability, structure, and routine were important for Malayah. Malayah needed consistent adults in her life and a lot of support, attention, and supervision. Malayah was bonded to her foster parents and referred to them as her parents. Burdick did not believe Malayah would suffer any emotional harm if Taylor's parental rights were terminated because she did not have a significant bond with either of her biological parents.

Based on this evidence, the trial court terminated Taylor's parental rights pursuant to MCL 712A.19b(3)(c)(i), noting that Taylor was incarcerated at the time of the adjudication and was once again incarcerated, awaiting hearing on his parole violation. According to the trial court, since the time of adjudication, Taylor's substance abuse, lack of parenting skills, lack of employment, and lack of independent housing have continued to exist.<sup>2</sup> Taylor failed to provide proper care and custody for Malayah. He has an unaddressed substance abuse issue and continuing conflicts with law enforcement. He has had recurring periods of incarceration and "violence follows him wherever he goes." At age 23, he was convicted of two serious felonies that posed safety issues for Malayah.<sup>3</sup> Three shootings occurred around Taylor between

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<sup>2</sup> MCL 712A.19b(3)(c)(ii).

<sup>3</sup> MCL 712A.19b(3)(g).

November 2006 and April 2007. His life style is high risk and Malayah's physical safety would be at risk if she were placed in Taylor's care.<sup>4</sup>

## II. Statutory Grounds for Termination

### A. Standard Of Review

Taylor argues that the requisite statutory grounds for termination were not established. To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been met by clear and convincing evidence.<sup>5</sup> We review for clear error a trial court's decision terminating parental rights.<sup>6</sup> 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.<sup>7</sup> Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.<sup>8</sup>

### B. Analysis

#### (1) MCL 712A.19b(3)(c)(i)

The trial court did not clearly err in terminating Taylor's parental rights pursuant to MCL 712A.19b(3)(c)(i). At the time of Malayah's removal, Taylor was incarcerated for a probation violation and for a plea-based controlled substance conviction.<sup>9</sup> He was paroled and released from prison on October 10, 2006, but violated parole on May 1, 2007, and was sent back to jail on May 3, 2007. Taylor continued to be incarcerated during the termination proceedings. There was no evidence in the record supporting his contention that he would soon be released from jail.

#### (2) MCL 712A.19b(3)(c)(ii)

The trial court also did not clearly err in terminating Taylor's parental rights pursuant to MCL 712A.19b(3)(c)(ii). Following the adjudication of Malayah, which had been based on Taylor's incarceration, new conditions were brought to the court's attention regarding Taylor's fitness and ability to parent Malayah. There were concerns that he was using illegal drugs, did not have adequate parenting skills, was without employment or income, and did not have suitable housing. There was no evidence that Taylor had stopped using illegal drugs, because he failed to

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<sup>4</sup> MCL 712A.19b(3)(j).

<sup>5</sup> MCL 712A.19b(3); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999).

<sup>6</sup> MCR 3.977(J); *In re Trejo*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *In re Sours*, *supra* at 633.

<sup>7</sup> *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

<sup>8</sup> MCR 2.613(c); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989).

<sup>9</sup> According to the Michigan Department of Corrections' Offender Tracking Information System, Taylor originally entered the prison system when he tendered a guilty plea to assault with intent to do great bodily harm less than murder, MCL 750.84, for an offense that occurred on May 23, 2001. He was sentenced on October 11, 2004, to one year eight months to ten years in prison.

submit drug screens. He missed 22 of the requested drug screens and only completed seven. He tested positive for marijuana in December 2006, and on February 7, 2007, he admitted that, if tested, his drug screen would likely have been positive. His screen on March 20, 2007, was dilute.

Taylor also stopped participating in counseling sessions and never completed parenting classes. A parent must benefit from services and make changes necessary to reach an acceptable level of parenting skill.<sup>10</sup> Taylor did not demonstrate that he had benefited or sufficiently improved his parenting skills.

(3) MCL 712A.19b(3)(g)

The trial court also did not err in terminating Taylor's parental rights pursuant to MCL 712A.19b(3)(g). The trial court correctly noted that Taylor could not provide proper care and custody of Malayah because he had an unaddressed substance abuse problem and continuing conflicts with law enforcement. Taylor was unable to support Malayah financially because he did not have sufficient income. Further, he could not provide Malayah safe housing and did not have adequate parenting skills to offer her proper care.

(4) MCL 712A.19b(3)(j)

Taylor argues that he is being blamed for being the victim of a crime, claiming that he was not involved in the shootings from which he sustained several gunshot wounds. Thus, he claims termination of his parental rights under MCL 712A.19b(3)(j) was clearly erroneous. We disagree. Taylor was shot at least twice in less than six months, and he admitted that he feared being shot again. Although the record does not make clear why, the evidence showed that Taylor was targeted by gunmen. Moreover, Taylor violated parole by associating with a person who carried a gun. Clearly, his lifestyle was not safe for Malayah.

### III. Conclusion

Despite Taylor's arguments to the contrary, given his lack of commitment to the services offered to him and his level of noncompliance, additional time and continuing services would not have allowed him to make the necessary progress. Additional time would have only delayed stability for Malayah.

Affirmed.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Alton T. Davis

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<sup>10</sup> *In re Dahms*, 187 Mich App 644, 647; 468 NW2d 315 (1991).