

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

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In the Matter of CHRYSTIAN MICHAEL  
ROBINSON, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NICOLE PONZIO URIE,

Respondent-Appellant,

and

CORREY M. ROBINSON,

Respondent.

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DEPARTMENT OF HUMAN SERVICES,

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v

CORREY M. ROBINSON,

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UNPUBLISHED  
September 11, 2008

No. 284079  
Oscoda Circuit Court  
Family Division  
LC No. 07-000424-NA

No. 284080  
Oscoda Circuit Court  
Family Division  
LC No. 07-000424-NA

Before: Whitbeck, P.J., and Bandstra and Donofrio, JJ.

PER CURIAM.

In these consolidated appeals, respondent-mother Nicole Urie and respondent-father Correy Robinson appeal as of right from a trial court order terminating their parental rights to the minor child. Urie's rights were terminated pursuant to MCL 712A.19b(3)(i) and (l),<sup>1</sup> and Robinson's rights were terminated pursuant to MCL 712A.19b(3)(n)(i).<sup>2</sup> We affirm.

### I. Basic Facts And Procedural History

In November 2007, DHS filed a petition seeking to terminate Urie's and Robinson's parental rights on the grounds that Urie had prior terminations and Robinson was a convicted sex offender. At the preliminary hearing, the trial court made a finding of probable cause based on Urie's prior terminations and Robinson's criminality.

Shortly thereafter, an amended petition was filed, alleging that Urie had previously had her rights to other children terminated. Rebecca Fockler testified that she was with St. Clair County DHS and had known Urie since 2000. Fockler was the foster care worker for Urie's oldest child. Fockler worked with Urie for approximately eight months, and Urie was provided with parenting education classes, AA/NA, drug/alcohol screens, parenting time, employment information, and counseling services. However, she failed to make progress and a termination petition was filed. Urie voluntarily relinquished her rights to the child in October 2001. Fockler again had contact with Urie in October 2005 when her next two children were removed because of Urie's failure to protect the children from the physical abuse of her boyfriend. Urie's parental rights to those two children were terminated in January 2006. In June 2006, Urie then had a fourth child. Fockler conducted an investigation and found that Urie had made some improvements—her housing was appropriate and there were baby furnishings. However, she continued to have a relationship with the abusive boyfriend, who had been convicted of physically abusing Urie's eldest son. Urie had been advised that her continued involvement with the man put her baby at risk, even though he was in jail. Urie did not believe he did anything wrong. A petition with regard to the fourth child was filed, and Urie's parental rights were terminated in October 2006.

With respect to Robinson, the amended petition alleged that in November 2001, he had pleaded guilty to two counts of third-degree CSC. St. Clair County Sheriff's Detective David A Patterson testified that he had investigated an allegation of criminal sexual conduct in which Robinson was the suspect. Robinson was 14 years old at the time. In an interview, Robinson acknowledged three different events, including digital, penal, and lingual penetration of the

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<sup>1</sup> MCL 712A.19b(3)(i) (parental rights to child's sibling[s] were terminated due to serious/chronic neglect or physical/sexual abuse, and prior rehabilitation attempts were unsuccessful) and (l) (parental rights to another child were previously terminated).

<sup>2</sup> MCL 712A.19b(3)(n)(i) (parent was convicted of criminal sexual conduct under MCL 750.520d and termination is in the child's best interests because continuing the parent-child relationship would be harmful to the child).

vaginal area, with a three-year-old victim. Robinson was also arrested in June 2006 for manufacture/delivery of a controlled substance.

At a January 2008 bench trial on the amended petition, protective services worker Timothy Jensen testified that he had received a referral regarding Chrystian on November 18, 2007. At the time Chrystian was removed, Urie and Robinson were living in a hotel. They had adequate baby supplies; however, neither respondent was employed or had a vehicle. Urie told Jensen that they had moved to Oscoda to avoid St. Clair protective services. To Jensen's knowledge, Urie and Robinson were currently living with the paternal grandfather in Port Huron. Urie and Robinson moved to Port Huron in November and had not visited with the child since.

Jensen sought termination of Robinson's parental rights based on the CSC conviction, the fact that he had a drug conviction within a month of being discharged from probation, and the fact that he remained with a woman whose parental rights to four other children had been terminated. The trial court found that it had jurisdiction over Chrystian based on the prior terminations, Robinson's criminality, and the fact that Urie and Robinson did not have a means to support the child.

An initial disposition hearing was held in February 2008. Jensen testified that, in addition to the prior terminations and criminality, he was concerned about Urie and Robinson's relationship with one another. When he was informed that Urie and Robinson were no longer living together, he contacted St. Clair County Protective Services to conduct a home visit. The worker provided contrary evidence. Urie and Robinson moved to Oscoda just weeks before Urie gave birth to Chrystian and then they moved back to Port Huron only weeks later, confirming Jensen's suspicion that they were eluding protective services.

Following the hearing, the trial court issued a written opinion and order that terminated Urie's and Robinson's parental rights. Urie and Robinson each now appeal as of right.

## II. Statutory Grounds For Termination

### A. Standard Of Review

To terminate parental rights, the trial court must find that the petitioner has proven at least one of the statutory grounds for termination by clear and convincing evidence.<sup>3</sup> We review for clear error a trial court's decision terminating parental rights.<sup>4</sup> A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction

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

<sup>4</sup> MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *Sours*, *supra* at 633.

that a mistake has been made.<sup>5</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>6</sup>

## B. Analysis

### (1) Termination of Urie's Parental Rights

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. Urie voluntarily relinquished her rights to her first child in October 2001. Just a little over four years later, in January 2006, her rights to her second and third children were terminated after she failed to protect them from her boyfriend's physical abuse. And later that same year, in October 2006, her parental rights to her fourth child were terminated because, refusing to believe that he did anything wrong, she continued to have a relationship with her abusive boyfriend, even after she was advised that the man put her baby at risk. The record therefore clearly shows that the statutory bases for termination of Urie's parental rights were proven by clear and convincing evidence.

### (2) Termination of Robinson's Parental Rights

Robinson admits that, at age 14, he was convicted of two counts of third-degree criminal sexual conduct after confessing that he penetrated his three-year-old victim. However, Robinson argues that for there to be termination under MCL 712A.19b(3)(n)(i), there must be a nexus between the crime for which he was convicted and the potential harm to the minor child at issue. And, here, Robinson argues, the record revealed that he was not a risk to Chrystian. Specifically, Robinson points to the testimony of Dayna Vasbinder, a juvenile justice specialist for the St. Clair County DHS, who was Robinson's probation officer for three years, starting in 2002. According to Vasbinder, Robinson had been convicted as an adult, but he was sentenced as a juvenile to the Maxey Boys Training School. He stayed at the facility for approximately 11 months and completed an intensive sex offender treatment program. Robinson successfully completed his probation and graduated from high school. Vasbinder explained that had Robinson not been successful, he could have been turned over to the Department of Corrections for a prison sentence. Vasbinder was not aware of any other instances of inappropriate behavior that Robinson had with a minor. Vasbinder considered Robinson "a success."

Further, Dan Diller testified that he was program manager of sexual offender treatment at the Maxey Boys Training School when Robinson was there. Robinson had a good prognosis because he was a "self-reporter"—he raped a child, felt bad, and reported on himself. Robinson completed the program in about two-thirds the time it normally took a juvenile to work through the program. Diller testified that the program had a 92 percent success rate and only an eight percent recidivism rate. Diller claimed that he would not be concerned about Robinson being around a young child. He considered Robinson a success story. Diller was not aware that Robinson was on probation for a drug offense.

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<sup>5</sup> *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

<sup>6</sup> MCR 2.613(c); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989).

With respect to this Robinson, the trial court found as follows:

Termination is in the child's best interests because continuing the parent child relationship would be harmful to the child. Determination of harm is not restricted to the likelihood of whether the parent with a criminal sexual conduct conviction would re-offend or offend against the child. Even though it is unlikely Chrystian would be at risk of harm from Mr. Robinson simply by virtue of his prior CSC conviction, that conviction requires the court to evaluate whether continuing the parent child relationship would be harmful to the child based on all available facts. Mr. Robinson is on probation for a felony drug offense. He has no employment, no vehicle, no source of income or means of support to provide for himself and the child and continues to live with the child's mother, Nicole Urie, who has voluntarily terminated parental rights to one child and had her parental rights to three other children involuntarily terminated due to her failure to protect her children. Mr. Robinson has not exercised sufficient parenting time with his child to evidence a level of interest in the child's welfare that demonstrates an attachment to the child or an ability to parent an infant in a stable environment.

Despite Mr. Robinson's progress in the Maxey Boys Training School's sexual offender treatment program, in light of his drug offense and his inability to demonstrate a sufficient ability to care for the child, we are not left with a definite and firm conviction that the trial court clearly erred in finding that statutory grounds for termination of Robinson's parental rights were established by clear and convincing evidence.

### III. Best Interests Determination

#### A. Standard Of Review

Once a petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the trial court finds from evidence on the whole record that termination is clearly not in the child's best interests.<sup>7</sup> There is no specific burden on either party to present evidence of the children's best interests; rather, the trial court should weigh all evidence available.<sup>8</sup> We review the trial court's decision regarding the child's best interests for clear error.<sup>9</sup>

#### B. Analysis

The trial court concluded that Urie and Robinson had no way to care for the child. When the child was removed from their care, Urie and Robinson were living in a motel room. Neither had employment. At the time of trial, they had moved back to Port Huron and were living with

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<sup>7</sup> MCL 712A.19b(5); *Trejo, supra* at 350.

<sup>8</sup> *Trejo, supra* at 354.

<sup>9</sup> *Id.* at 356-357.

the child's paternal grandfather. They had no means of transportation, which infringed on their ability to visit with the child. The only time Urie and Robinson visited the child was after court hearings. They never initiated contact with the worker despite being provided with a toll-free number. Their interest in the child's well being was questionable, given their failure to inquire about his well being. No evidence of a bond existed, as the child was removed the day after his birth and only a handful of visits were conducted. Therefore, the trial court did not err in determining that it was not contrary to the child's best interests to terminate Urie's and Robinson's parental rights.

In sum, we conclude that Urie's and Robinson's parental rights were properly terminated.

Affirmed.

/s/ William C. Whitbeck  
/s/ Richard A. Bandstra  
/s/ Pat M. Donofrio