STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of MONIQUE BENNETT, MICHAEL GRUENBERG, and MARIAH GRUENBERG, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL GRUENBERG,

Respondent-Appellant,

and

BERNICE BENNETT,

Respondent.

UNPUBLISHED
October 21, 2008

No. 284352
Jackson Circuit Court
Family Division
LC No. 05-002813-NA

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DEPARTMENT OF HUMAN SERVICES,

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MICHAEL GRUENBERG,

Respondent.

Before: Hoekstra, P.J., and Cavanagh and Zahra, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g). We affirm.

Respondents claim that the trial court clearly erred in terminating their parental rights.[1] We disagree. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000), citing MCL 712A.19b(5). We review the trial court's determination for clear error. *Trejo, supra* at 356-357.

The three older children at issue were removed from respondents' care after repeated instances of environmental neglect and, at the time of the removal, drug use in their home. The youngest child was removed from their care at birth during the proceedings. During the over two-year proceedings, respondents generally complied with and participated with extensive services, including substance abuse services, counseling, in-home services to assist with parenting and maintaining their home, reunification services, numerous parenting classes, psychological evaluations, and case management assistance. Respondents appeared to successfully address their substance abuse issue during the proceedings and, by the time of the termination proceedings, respondent-mother appeared to be maintaining the cleanliness of her

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[1] Petitioner argues that, because the termination transcripts filed with this Court were incomplete, respondents' issues were not properly preserved for appeal. Although [t]his Court can refuse to consider issues for which the appellant failed to produce the transcript, *Thompson v Thompson*, 261 Mich App 353, 359 n 1; 683 NW2d 250 (2004), we decline to do so. Apparently some testimony near the end of the first day of the termination trial was not recorded, and respondents have not filed a settled statement of facts as required by MCR 7.210(B)(2). However, none of the parties cited or referred to any witness testimony in their appellate briefs that was not contained in the record before this Court. We also note that the opinions of respondents' therapists, whose testimony was apparently missing from the record, were contained in the lower court file in the form of letters provided to the court, thereby minimizing any prejudice to the parties that may have resulted from the absence of their testimony from the transcripts.

home. Although they made some progress towards addressing their issues, it was evident that, despite their efforts and extensive services to assist them, respondents' parenting ability had not improved sufficiently to insure that the children would be safely and/or properly cared for if in their custody and that neglectful conditions would likely reoccur.

We find significant the testimony by the worker who provided in-home services to the family during the intense reunification efforts made during the proceedings. That testimony clearly showed that respondents struggled greatly in parenting their children and placed them at a risk of harm. Specifically, testimony indicated that respondents appeared confused and did not understand what they were supposed to do and were unable to follow through with the instruction provided to them. In addition, they were hostile, argued in front of the children, and were unable to work together on parenting issues. They were unable to implement sufficient structure in the home, made poor choices concerning the safety and supervision of the children, and improperly supervised the children. These deficiencies eventually led to the children's removal from their home again. In fact, the worker opined that respondents could not maintain change without ongoing intense support given their history of reverting to "their old ways" and the extensive level of services already provided. The caseworker also observed only sporadic improvement and "continuous non-benefit" in respondents' parenting skills. Once services ended, they "fell back into the same mold" and were unable to consistently maintain a safe and appropriate home. Also revealing was testimony indicating that the children appeared to regress developmentally and/or emotionally while placed in respondents' home.

Respondents' apparent inability to facilitate lasting change to enable them to effectively parent the children clearly showed that they would not likely benefit from additional services to enable them to provide proper care and custody for the children within a reasonable time. MCL 712A.19b(3)(c)(i) and (g). This is especially so, given their failure to effectively parent the children and maintain a safe environment during the reunification efforts made during the proceedings and the children's needs for permanence, a safe environment, and effective parenting due to their high needs. Although we recognize that there was conflicting evidence that, at times, respondents interacted appropriately with the children and made progress and showed improvement during the proceedings, issues of credibility must be resolved by the trial court. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). It was clear from the court's opinion that it found the worker who assisted respondents during reunification efforts to be very reliable and convincing. In light of this evidence, we cannot conclude that the trial court clearly erred in its finding that respondents failed to adequately rectify their parenting issues or that there was no reasonable expectation that they would be able to provide proper care and custody for the children within a reasonable time. See MCL 712A.19b(3)(c)(i) and (g); see, also, *Trejo*, *supra* at 356-357.

Respondent-father cites *In re Newman*, 189 Mich App 61; 472 NW2d 38 (1991), in support of his argument that he should be allowed an opportunity to demonstrate his parenting ability independently from respondent-mother. However, *Newman* is distinguishable from the instant case. In addition to his parenting deficiencies and history of regression when services ended, respondent-father could not physically support the children because, at the time of the termination trial, he remained unemployed and without housing. Additionally, unlike in *Newman*, testimony in this case clearly indicated that petitioner provided a high level of services to respondents over a lengthy period of time. Although respondents' relationship issues very

likely interfered with respondent-father's ability to effectively parent the children during the time the children were placed in respondents' home, under the above noted circumstances we find no clear error in the trial court's finding that there was no reasonable expectation that he would be able to provide proper care or custody for the children within a reasonable time. See *Trejo, supra* at 356-357. In fact, the reunification worker opined that respondents could not maintain change and would revert "back to their old ways" *even if they were separated* given their history of failing to do so.

After review of the entire record, we likewise find no clear error in the trial court's finding that the evidence failed to show that termination was clearly not in the children's best interests. See MCL 712A.19b(5); *Trejo, supra* at 356-357. Under the circumstances of this case, the evidence of a bond between the children and respondents did not "clearly overwhelm," *id*. at 364, respondents' lack of progress with services, their continued inability to effectively and safely parent the children during the lengthy proceedings, the opinions by professionals that they would regress without continued intense services, and the children's high need for a structured and supervised environment and permanency.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Mark J. Cavanagh
/s/ Brian K. Zahra