

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ZACKERY AARON COOPER,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TAMMY COOPER,

Respondent-Appellant,

and

CHARLES NANTELL,

Respondent.

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UNPUBLISHED  
November 13, 2008

No. 285443  
St. Clair Circuit Court  
Family Division  
LC No. 03-000607-NA

Before: Beckering, P.J., and Borrello and Davis, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).<sup>1</sup> We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *Trejo, supra* at

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<sup>1</sup> The parental rights of the father, Charles Nantell, were also terminated but he is not a party to this appeal.

356-357; *Sours, supra* at 633. 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. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra* at 337.

There was clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i). The conditions that led to the adjudication continued to exist at the time of the permanent custody hearing. Respondent's neglect of Zackery, homelessness, and drug use were the conditions that led to the child's adjudication. By the time of the permanent custody hearing, respondent had not demonstrated that she was able to maintain safe, appropriate, and independent housing for herself and Zackery. Also, respondent tested positive for cocaine in December 2006 but denied using drugs. She only submitted two of the ten requested drug screens so she was unable to demonstrate that she was drug free. And, there is no evidence respondent ever attended or benefited from counseling in an effort to address the issues that caused her to neglect Zackery's physical and medical needs. Respondent often became angry and frustrated with Zackery at visits and asked to leave visits early, thereby demonstrating that she had not improved her awareness of his needs or her relationship with him. Thus, termination of parental rights under MCL 712A.19b(3)(c)(i) was proper.

Termination of respondent's parental rights pursuant to MCL 712A.19b(3)(g) and MCL 712A.19b(3)(j) was also appropriate. Respondent never demonstrated that she had suitable housing or that she could maintain employment so that she could support Zackery. Respondent never provided documentation of her employment to the caseworker. Respondent's refusal to submit drug screens and demonstrate that she had been living drug free also indicates that she could not properly care for Zackery. And, given respondent's history of physical neglect, drug use, and unwillingness to address the issues that brought Zackery into foster care, Zackery would be at risk of harm if returned to respondent's care. Respondent's casual attitude about Zackery's medical needs further suggests that Zackery would be subjected to harm in respondent's care any time he needed medical attention. Thus, termination under MCL 712A.19b(3)(g) and (j) was proper.

Finally, the trial court did not clearly err in its best interests determination. There is no evidence that termination of respondent's parental rights is contrary to Zackery's best interest. Although respondent argues that given Zackery's age, he would be bonded to respondent, the record does not indicate that Zackery had a strong bond with her. And the evidence showed that Zackery was thriving in his relative placement and that it offered him structure and stability. Zackery's behavior had improved and his medical needs were finally being met. Moreover, it would not have been in Zackery's best interest to return him to respondent's care given respondent's instability, lack of suitable housing, failure to maintain employment, inability to meet his basic needs, and failure to address the issues that brought him into protective care.

Affirmed.

/s/ Jane M. Beckering  
/s/ Stephen L. Borrello  
/s/ Alton T. Davis