

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

---

In the Matter of DODGE ALLEN LANDES,  
Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NICHOLE HENRY,

Respondent-Appellant,

and

JEREMY LANDES,

Respondent.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JEREMY LANDES,

Respondent-Appellant,

and

NICHOLE HENRY,

Respondent.

---

UNPUBLISHED

January 6, 2009

No. 285748

Ionia Circuit Court

Family Division

LC No. 08-000006-NA

No. 285824

Ionia Circuit Court

Family Division

LC No. 08-000006-NA

Before: Murray, P.J., and Markey and Wilder, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights pursuant to MCL 712A.19b(3)(g), (i), (l) and (m). 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 355-357; *Sours, supra* at 632-633. 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; 455 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.

The trial court did not err when it terminated respondent-mother's parental rights under MCL 712A.19b(3)(g) because she failed to provide proper care for Dodge. Respondent-mother was living with a friend, and her housing situation was uncertain. She had not demonstrated the ability to provide for Dodge financially because she was only working part-time.

The chaos in respondent-mother's life further demonstrated her inability to properly care for Dodge. She has been incarcerated on three separate occasions. According to the caseworker, the relationship between respondents is even more unstable than it was in March 2008, at the time petitioner withdrew its original permanent custody petition. Respondents have unresolved domestic violence issues that, according to respondent-mother's therapist, create for an unhealthy relationship. Respondent-mother even acknowledged that her relationship with respondent-father was not good for a small child. There is no indication respondent-mother has benefited from services during the pendency of the case and according to her therapist, she will need at least six more months of therapy.

Because respondent-mother neither benefited from services since her parental rights were terminated to Dodge's siblings in December 2006, nor showed that she had made necessary changes so that she could properly care for Dodge, the doctrine of anticipatory neglect applies in this case. Respondent-mother's inability to demonstrate parental fitness and care for her other children reveals her inability to do so for Dodge. A parent's treatment of one child is probative of her proclivity to abuse other children. *In re Parshall*, 159 Mich App 683, 689; 406 NW2d 913 (1987); *In re Youmans*, 156 Mich App 679, 689; 401 NW2d 905 (1986); *In re Dittrick Infant*, 80 Mich App 219, 222; 263 NW2d 37 (1977); *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973).

Termination of respondent-mother's parental rights was also proper under MCL 712A.19b(3)(i) and (l). Respondent-mother's parental rights were terminated to three other children on December 8, 2006. The court terminated her parental rights after finding that the

children had been abused and neglected due to her failure to improve emotional stability, parenting skills, and resource management skills.

Lastly, respondent-mother briefly argues that termination of her parental rights was not contrary to Dodge's best interests. The court did not err in its best interest decision. The court made an affirmative finding that termination of parental rights was in Dodge's best interest because respondents live in chaos, and struggled with housing, employment, domestic violence, and emotional issues. Respondent-mother also struggled with habitual incarceration. Dodge is a young child who should not be expected to wait in foster care in the hope that respondent-mother will establish some stability.

The trial court also did not err when it terminated respondent-father's parental rights under MCL 712A.19b(3)(g) because he failed to provide proper care for Dodge. Respondent-father did not know whether he would be living in his trailer or with his mother. His housing situation was uncertain and he continued to face eviction from his trailer. Respondent-father claimed he just began a new job, but did not provide verification of this employment. Respondent-father's relationship with respondent-mother was unhealthy and unstable, and involved domestic violence. Likewise, he used violence in dealing with his and respondent-mother's children prior to Dodge's birth. The evidence showed that respondent-father kicked respondent-mother's disabled son while wearing steel-toed boots and relied on inappropriate disciplinary techniques, including hitting the children with a paddle and duct-taping their hands, feet, and mouths. Respondent-father's treatment of those children is probative of his proclivity to abuse Dodge. *In re Parshall, supra*; *In re Youmans, supra*; *In re Dittrick Infant, supra*; *In re LaFlure, supra*.

Respondent-father's interaction with Dodge and his ability to care for the child were questionable. During the supervised visit observed by the caseworker, respondent-father did not even hold Dodge. Respondent-father also stated that he had not submitted a discipline plan, per the caseworker's request, because he had not yet learned how to discipline an infant.

Respondent-father's repeated failure to cooperate with the caseworker demonstrated his lack of commitment toward reunification. When the caseworker requested that he provide her with a journal, he did not do so and only submitted a brief activity log as an evidentiary exhibit during the permanent custody hearing. Likewise, although respondent submitted a certificate of completion of parenting classes on May 29, 2008 into evidence, he never provided the caseworker with this documentation or provided her with work or housing updates. His attendance in therapy was sporadic, and there is no evidence that he benefited from the services in which he participated or that he had changed since releasing his parental rights to another child on September 10, 2007. Rather than working with the caseworker, he acted independently, only making last minute efforts to make himself look cooperative and compliant.

Termination of respondent-father's parental rights was also proper under MCL 712A.19b(3)(m). On September 10, 2007, respondent-father released his parental rights to Dodge's sister following initiation of proceedings under the child protection code.

Finally, both respondents argue that the law allows 182 days from the issuance of the initial dispositional order before the trial court can terminate parental rights. MCL 712A.19b(3)(c). They argue that they were only given 42 days until their parental rights were

terminated on May 30, 2008. While statutory language in MCL 712A.19b(3)(c) does require that 182 days have elapsed since the issuance of an initial dispositional order, in this case, respondent-father's parental rights were not terminated under this statutory subsection and, therefore, the amount of time listed in subsection (3)(c) is inapplicable here. Although petitioner was legally obligated to file a permanent custody petition and seek termination of parental rights at the initial disposition, petitioner gave respondents an additional six weeks to demonstrate that they had made improvements to their chaotic, unstable lives. As petitioner correctly argues, if respondents were unsatisfied with this agreement they should have objected to preserve the issue and filed a direct appeal following the initial dispositional order. A court's exercise of jurisdiction can only be challenged by direct appeal. *In re Hatcher*, 443 Mich 426; 505 NW2d 834 (1993).

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Kurtis T. Wilder