

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

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In the Matter of AMBER GRIFFITH, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER JENKS,

Respondent-Appellant,

and

JAMES JENKS,

Respondent.

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In the Matter of CHEYENNE JENKS, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER JENKS,

Respondent-Appellant,

and

JAMES JENKS,

Respondent.

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In the Matter of CAMERON JENKS, Minor.

UNPUBLISHED  
February 10, 2009

No. 286647  
Washtenaw Circuit Court  
Family Division  
LC No. 2006-000139-NA

No. 286648  
Washtenaw Circuit Court  
Family Division  
LC No. 2006-000140-NA

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER JENKS,

Respondent-Appellant,

and

JAMES JENKS,

Respondent.

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No. 286649

Washtenaw Circuit Court

Family Division

LC No. 2006-000141-NA

Before: Sawyer, P.J., and Servitto and M. J. Kelly, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (c)(i), (c)(ii), and (g). Because we conclude that there were no errors warranting relief, we affirm.

This matter came to the attention of the Department of Human Services in September 2006, when the agency responded to a call at the family's address, found the children—Amber, Cheyenne, and Cameron—unattended and filthy in a popup camper, and found the home in deplorable condition without running water. The children were removed from the home and placed in the jurisdiction of the court based upon the admissions of the parents. Some four months after the initial dispositional hearing, the eldest child disclosed that she had been the victim of sexual abuse by her stepfather, the father of Cheyenne and Cameron. James Jenks was convicted of first-degree criminal sexual conduct against a person under 13 years of age, and his parental rights to Cheyenne and Cameron were terminated on February 22, 2008.<sup>1</sup> The parental rights of Amber's father, Victor Griffith, had been terminated in prior proceedings in Crawford County in 1998. Mr. Griffith was convicted in 1996 of third-degree child abuse.

On appeal, respondent mother challenges the sufficiency of the evidence to establish a statutory ground for termination. The trial court did not clearly err by finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The record contains evidence adequate to support the trial court's conclusion that respondent mother had the opportunity to prevent the

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<sup>1</sup> Mr. Jenks appealed the order terminating his parental rights, which was affirmed by this Court. *In re Jenks, Minors*, \_\_\_ Mich App \_\_\_, \_\_\_ NW2d \_\_\_ (2008).

sexual abuse of one of the children but failed to do so, and that there was a reasonable likelihood that this child and her siblings would suffer abuse or injury in the future if placed with respondent mother. MCL 712A.19b(3)(b)(ii).

At trial, petitioner introduced the therapy reports of Marie Marolf, who stated that she heard respondent mother state to Amber, immediately after the child testified in criminal proceedings against Mr. Jenks, “I am very proud of you. I knew all along that this was happening and you were very brave to do something about it.” Respondent mother’s admission provides clear and convincing, legally admissible evidence<sup>2</sup> that she was aware of the sexual abuse of Amber by Mr. Jenks yet allowed it to continue. The trial court therefore did not clearly err by finding clear and convincing evidence that respondent mother had the opportunity to prevent the sexual abuse of Amber but failed to do so. *Id.* Further, the trial court did not clearly err by finding that there was a reasonable likelihood that the children would be injured or abused if returned to respondent mother’s care. *Id.* Respondent has a history of choosing violent and abusive partners. Both fathers of her children are convicted child abusers, and both engaged in domestic violence against respondent mother. Respondent mother testified that she learned of the protective services history of Amber’s father, Victor Griffith, upon the birth of Amber. At this point, respondent mother chose to remain in a relationship with Mr. Griffith and place Amber in the care of respondent mother’s own parents. Respondent mother demonstrated no insight into her choice of partners, stating that she really did not know how she had ended up with two men who were physical and sexual abusers. Respondent mother has not participated in comprehensive therapy, despite at least two referrals. She is very resistant to therapy and does not want to discuss her own childhood, which is notable for repeated protective services involvement. Where respondent mother has failed to engage in comprehensive therapy, and noticeably rejected responsibility for any of the harm that has come to the children, it appears more than reasonably likely that the children would be injured or abused if returned to her care, and the trial court did not clearly err in so finding.

Termination was also warranted on the ground that the conditions of adjudication continued to exist and that there was no reasonable likelihood that they would be rectified within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i). The primary conditions of adjudication were the failure of both parents to adequately supervise the children and to provide a suitable physical environment for them. The evidence amply supported the trial court’s conclusion that respondent mother continued to lack the ability to provide adequate housing for the children. Although she had a suitable two-bedroom apartment at the time of the termination trial, she was at the commencement of the trial two months behind on rent, having been in the apartment only four months. Her income is patently inadequate to maintain the apartment, and at the time of trial respondent mother was unable to work due to an automobile accident. While respondent mother’s family paid her past due rent during the pendency of the termination hearing, she apparently failed to seek their help before that time. Her ability to

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<sup>2</sup> Because termination under MCL 712A.19b(3)(b)(ii) was premised on a different ground from those that led to the court’s assertion of jurisdiction, the factual basis for termination under this statutory subsection was required to be established by clear and convincing, legally admissible evidence. MCR 3.977(F)(1)(b).

exercise management skills and judgment adequate to maintain housing in the future is questionable at best.

In a more general sense, the record demonstrates that respondent mother's deficits in judgment concerning the supervision of the children as well as basic life management continue to exist. Her failure to engage in therapy as required by her parent-agency agreement reflects an absence of self-examination that would allow respondent mother to make more appropriate choices for her children. This is also evident from her testimony, in which she persistently denied any responsibility for her decisions and actions. Respondent mother's resistance to therapy and her failure to understand her own role in the harmful events of her children's lives supplies ample basis to conclude that respondent mother lacks the insight to conduct herself differently in the future and to avoid repeating past conduct. This is the conclusion of Dr. Ehrlich, who conducted a psychological evaluation of respondent and saw "no indication that she has the capacity to conduct her life differently than she has in the past." Under these circumstances, we perceive no clear error in the trial court's conclusion that there was no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time considering the ages of the children. *Id.*

The trial court also did not clearly err by finding that a new condition existed that gave rise to jurisdiction and that respondent mother failed to rectify the condition after receiving notice and a hearing as well as recommendations and a reasonable opportunity to carry them out. MCL 712A.19b(3)(c)(ii).<sup>3</sup> The new condition giving rise to jurisdiction that became known subsequent to adjudication was the sexual abuse of the eldest child by James Jenks, father of Cheyenne and Cameron. Shortly after the disclosure of sexual abuse, the trial court ordered respondent mother to immediately enroll in counseling. However, court appointed special advocate Diane Healy testified that respondent mother was resistant to therapy, did not want to talk about the past, and stated that she did not feel she needed therapy. Although she received at least two referrals for comprehensive counseling, respondent mother instead became engaged in more specific spousal abuse counseling at an agency to which she had been referred for budgeting assistance. She attended this counseling inconsistently, and she began to consistently attend only during the termination trial. Respondent mother's failure to engage in meaningful counseling, together with the evidence cited in our analysis of the evidence supporting termination pursuant to MCL 712A.19b(3)(b)(ii), clearly warrants the termination of her parental rights under MCL 712A.19b(3)(c)(ii) as well.

Termination was also appropriate on the ground that respondent mother failed to provide proper care and custody for the children, and there was no reasonable likelihood that she would be able to do so within a reasonable time considering their ages. MCL 712A.19b(3)(g). Respondent mother failed to provide proper care and custody for the children at a minimum by maintaining the home in deplorable and uninhabitable condition. The same evidence that established that there was a reasonable likelihood that the children would be injured or abused if returned to respondent mother, MCL 712A.19b(3)(b)(ii), and that established that there was no

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<sup>3</sup> This statutory ground for termination also must be established by clear and convincing, legally admissible evidence. MCR 3.977(F)(1)(b).

reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time considering the ages of the children, MCL 712A.19b(3)(c)(i), equally establishes that there is no reasonable likelihood that respondent mother would be able to provide proper care and custody for the children within a reasonable time considering their ages, MCL 712A.19b(3)(g), and the trial court did not clearly err in so finding.

Finally, the trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the children. MCL 712A.19b(5).<sup>4</sup> Although there is a bond between respondent mother and the children, she has proven wholly unable to protect them and provide adequate care for them. According to the foster care worker, the children do not feel that respondent mother can care for them. Ms. McLoyd, a therapist for Cameron and Cheyenne, testified that both children have significant unresolved trauma that will play out throughout their lives. Ms. McLoyd did not think either Cheyenne or Cameron would feel safe with respondent mother. She felt that the children should be removed from the care of respondent and placed in a permanent adoptive or foster home. Ms. Marolf, apparently referring to all three children, stated that they want to see their mother, but they do not want to live with her. The record in this case provided no evidence suggesting that termination would be contrary to the best interests of the children and much evidence indicating that it is affirmatively in their best interests.

Affirmed.

/s/ David H. Sawyer  
/s/ Deborah A. Servitto  
/s/ Michael J. Kelly

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<sup>4</sup> We note that, after respondent's parental rights were terminated, the statute was amended by 2008 PA 199, effective July 11, 2008, to require that a court affirmatively find that termination is in the child's best interests before it can order termination.