

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

---

In the Matter of GEOVANNI ARMANI SMITH,  
Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LISA FISHER,

Respondent-Appellant,

and

LAWRENCE EARL SMITH,

Respondent.

---

UNPUBLISHED  
September 3, 2009

No. 290307  
Wayne Circuit Court  
Family Division  
LC No. 91-290323

Before: Saad, C.J. and Whitbeck and Zahra, JJ.

PER CURIAM.

Respondent Lisa Fisher appeals as of right from the January 16, 2009, order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g) (failure to provide proper care or custody), (j) (the child is likely to be harmed if returned to the parent's home), and (l) (the parent's rights to another child were terminated after child protective proceedings were initiated). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent is the mother of eight children born between 1984 and 2008. The instant case relates to the youngest child, born October 4, 2008. The DHS filed a temporary custody petition with respect to four of respondent's children in September 1996, alleging that respondent was using drugs and had been neglecting the children, who were found in their home alone, dirty, and hungry. The children became temporary wards in January 1997. Respondent did not comply with services, and a supplemental petition for termination was filed in March 1998. At the same time, the DHS filed a permanent custody petition with respect to a fifth child who had tested positive for cocaine at birth. In September 1998, respondent's parental rights to the five children were terminated pursuant to §§ 19b(3)(c)(i), (g), and (j), and this Court affirmed that

decision in *In re Fisher*, unpublished memorandum opinion of the Court of Appeals, issued November 30, 1999 (Docket Nos. 218228/218393).

The DHS thereafter filed a permanent custody petition with respect to another of respondent's children in April 2000, alleging that respondent had continued to use drugs and that the child tested positive for cocaine at birth. The child became a temporary ward in August 2000. Respondent did not obtain drug treatment, and her parental rights were terminated pursuant to §§ 19b(3)(a)(ii), (c)(i), (g), (i), and (j) in February 2001.

The DHS filed a permanent custody petition with respect to the minor child who is the subject of this litigation in October 2008. In addition to the prior terminations, it alleged that respondent continued to use drugs and the child tested positive for marijuana and cocaine at birth. Following a preliminary hearing, the court authorized the petition and placed the child in foster care. At the hearing, the court received into evidence copies of the prior termination orders and an October 5, 2008 lab report showing that the minor child tested positive for cocaine and THC marijuana. Respondent admitted that she had a substance abuse problem dating back to 1989 or 1990 when she began using crack and alcohol. Respondent had received substance abuse treatment "about five" times already and eventually relapsed every time. Respondent admitted that her parental rights to her other children had been terminated because of her instability and drug addiction.

Respondent testified that she had been off drugs since early 2007. She was working as a machine operator and attending AA/NA meetings.<sup>1</sup> In March or April 2008, she enrolled in outpatient substance abuse treatment at Positive Images. In addition to not using drugs and participating in outpatient treatment, respondent also attended parenting classes and nutrition classes. Despite her best efforts, she admitted that she relapsed and used drugs in June 2008, while pregnant with the minor child.

Respondent testified that she had supplies for the minor child. Although she had been laid off from her machinist's job in February 2008, she was looking for work and intended to work to support the minor child. Respondent testified that if given an opportunity to participate in services, she would cooperate with the agency and do whatever was required of her. Based on respondent's history of prior terminations and given that the minor child tested positive for cocaine and marijuana at birth, the court determined that it had jurisdiction over the child. The parties did not present any additional evidence regarding the child's best interests. Respondent asked only that the court consider her prior testimony.

The court found clear and convincing evidence that respondent's long-standing substance abuse problem would continue into the foreseeable future, and terminated respondent's parental rights pursuant to §§ 19b(3)(g), (j), and (l). The court also found clear and convincing evidence that it was clearly in the child's best interest to terminate parental rights. This appeal followed.

---

<sup>1</sup> Respondent neglected to bring documentation verifying her participation in classes and attendance at AA/NA meetings because she "was unaware of this hearing or what this court date was about."

A trial court may terminate parental rights at the initial dispositional hearing if a preponderance of the evidence establishes grounds for the assumption of jurisdiction under MCL 712A.2(b) and the court finds on the basis of clear and convincing legally admissible evidence that one or more facts alleged in the petition are true and establish grounds for termination under MCL 712A.19b(3). MCR 3.977(E); *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008). Once a statutory ground for termination has been established, the court shall order termination of parental rights if it finds that termination is in the child's best interests. MCL 712A.19b(5). The trial court's findings regarding a statutory ground for termination and the child's best interests are reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

Respondent's sole argument on appeal is that the trial court erred in terminating her parental rights because, in light of her recent progress, it could reasonably be expected that she could provide a fit home for the child within a reasonable time. She thus appears to take issue with the trial court's finding with respect to § 19b(3)(g) only. She does not address the other statutory grounds cited by the court. Where a respondent does not challenge the trial court's determination regarding one or more of several statutory grounds, this Court may assume that the trial court did not clearly err in finding that the unchallenged grounds were proven by clear and convincing evidence. See *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1999), overruled in part on other grounds by *In re Trejo*, *supra* at 353. Further, respondent's failure to brief an issue that must necessarily be reached to reverse the trial court precludes appellate relief. *City of Riverview v Sibley Limestone*, 270 Mich App 627, 638; 716 NW2d 615 (2006). In any event, it was undisputed that respondent had her parental rights to six other children terminated because she had been unable to provide for their needs due to her substance addiction. Because § 19b(3)(l) was established by clear and convincing evidence, the Court need not reach the other grounds relied upon by the trial court. *In re Trejo*, *supra* at 360. Any error with respect to § 19b(3)(g) is harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Respondent also takes issue with petitioner's failure to provide her with services for reunification. Generally, when a child is removed from the custody of the parents, petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan if reunification is the goal. MCL 712A.18f(1), (2), (4). However, services are not always required. *In re Terry*, 240 Mich App 14, 25 n 4; 610 NW2d 563 (2000). Reasonable efforts to reunify the child with his parents are not required where the parent's rights to the child's siblings were involuntarily terminated. MCL 712A.19a(2)(c). Respondent's claim is without merit.

Affirmed.

/s/ Henry William Saad  
/s/ William C. Whitbeck  
/s/ Brian K. Zahra