

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

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In the Matter of BRM, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MATTHEW MAYER,

Respondent-Appellant,

and

ASHLEY HOLT,

Respondent.

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In the Matter of BRM, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ASHLEY HOLT,

Respondent-Appellant,

and

MATTHEW MAYER,

Respondent.

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UNPUBLISHED

September 29, 2009

No. 291156

St. Clair Circuit Court

Family Division

LC No. 08-000003-NA

No. 291233

St. Clair Circuit Court

Family Division

LC No. 08-000003-NA

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

PER CURIAM.

In these consolidated cases, respondents appeal the circuit court's order terminating their parental rights to the minor child. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

### I. Facts and Proceedings

Respondents came to the attention of petitioner in August 2007, when petitioner received a complaint that respondents were using drugs around the child, had unstable and filthy housing, and that respondent mother had been hospitalized for four days due to depression. The original petition, filed on January 4, 2008, alleged that: respondent mother failed to attend counseling, both respondents failed drug screens, and both had engaged in an episode of domestic violence with each other. The court took temporary custody, as requested in the petition, and removed the child from the home.

Over the course of a year, services were offered to respondents in the effort to reunite the family. Respondent father lived in his own father's house; he never had independent housing. At first he participated in counseling, but by October 2008 he felt he was better and decided on his own to stop going to counseling. He lost his job in July 2008 and did not have his own transportation. He missed two of five scheduled drug screens but the ones he made were negative. He had a physical confrontation with his father in October 2008, when his father had been drinking and kicked respondent in the face; respondent in turn "body slammed" his father. Respondent felt this "was a typical dad/son fight," and he believed his father's house provided an adequate home for the child. He noted that the economy made it hard to find a job and he needed more than a low-paying job if he was going to acquire independent housing. He had trouble looking for work because he lacked his own transportation. Transportation also caused him to miss weekly visits with the child after October. However, he declined petitioner's offer of free bus passes because he did not like to ride the bus. He made one visit in November, but no more after that.

Respondent mother participated only minimally in services. The original petition alleged that she would not take her medication, did not attend substance abuse meetings, had no employment, failed a drug screen, missed appointments with service providers, got into fights, lacked stable housing, and would not let petitioner's workers in for home evaluations. At trial in February 2009, the foster care specialist testified that respondent mother still had no employment, had not verified her claim that she passed most of her GED, had lived at seven different addresses during the pendency of proceedings (making it difficult for the specialist to follow up on services), failed to complete parenting classes, had one negative drug screen out of five, attended no substance abuse meetings or anger management classes, and discontinued her counseling before it was complete.

Petitioner filed a supplemental petition on January 21, 2009, requesting termination of both parents' rights on the grounds of MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist with no reasonable likelihood of rectification), (3)(g) (parent has

not and likely cannot provide proper care and custody), and (3)(j) (likely that child will be harmed if returned to parent). On the day trial was held, respondent mother's attorney stated that while he was meeting with her just before trial was to start, she "was getting more and more upset about things as we talked and just told me that I'm not gonna deal with this; I'm leaving. And she left." He further stated that he had notified her by letter when he was appointed to represent her, but he did not hear from her or meet with her until that day. The court excused him from further representation.

The court ordered termination of both respondents' parental rights. After reciting the testimony, the court noted that the child had been in foster care for 13 months, during which neither parent progressed to the point of being allowed unsupervised visits. Respondent mother complied with basically none of her requirements; respondent father had complied with some requirements, but after October 2008 stopped participating in services and no longer complied with his plan. The court also found that termination was in the best interest of the child.

## II. Analysis

We review for clear error the trial court's findings that a ground for termination has been established. MCR 3.977(J); *In re Rood*, 483 Mich 73, 90-91 (Corrigan, J.); 126 n 1 (Young, J.); 763 NW2d 587 (2009). A finding is clearly erroneous if, although there is evidence to support it, we are 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 LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). The trial court's findings regarding the child's best interest are also reviewed under the clearly erroneous standard. MCR 3.977(J); *Rood*, *supra* at 91, 126 n 1.

The trial court correctly found grounds to terminate respondents' parental rights. The evidence shows that the mother was unwilling to make any changes in her lifestyle or mental condition, and that the father was willing to participate only to the extent no real demands were made of him. Both refused to take responsibility for their problems or to make sacrifices for their daughter, and neither one saw any problem with maintaining the status quo. Petitioner did not require respondent father to have independent housing for its own sake but because his father's house, where the two men engaged in physical violence, was not a safe environment for an infant. Respondent father seemed to have no real desire to make the changes necessary to give his daughter an appropriate home.

As for respondent mother, the testimony made it clear that the initial focus was on achieving mental stability. Although she suffered from a myriad of mental conditions, she refused to take the medication prescribed for these conditions, insisting that smoking marijuana was what really helped her. She made no progress on addressing her mental and addiction problems or her unstable housing, and thus there was little that could be done to improve respondent mother's parenting skills. She simply had no conception that her existing lifestyle—homeless, unemployed, and addicted—was not appropriate for raising the child.

Under all these facts, the trial court did not clearly err in finding clear and convincing evidence that the conditions that led to adjudication were likely to continue, that the parents were unable to provide proper care and custody of the child, and that the child would likely be harmed if returned to either parent. Both parents seemed satisfied with their marginal lifestyles and did not see any danger in introducing an infant to their environments.

Nor did the court err in finding termination was in the child's best interest. Respondent mother presents no evidence supporting her assertion that termination was not in the child's best interest, and certainly a review of the mother's history and unremedied problems does not leave one with "a definite and firm conviction that a mistake has been made." *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). Although the foster care specialist testified that respondent father and the child appeared bonded, respondent father was not willing to inconvenience himself by taking the bus to visit his child once a week, even though that was available to him at no cost. He had made some progress in meeting his requirements, but that tapered off and he no longer showed any motivation after October 2008, yet several of the conditions leading to adjudication remained. It cannot be said that it is in the child's best interest to further postpone the conclusion of these proceedings.

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Stephen L. Borrello