

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of MICHAEL CLAYTON LONG,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RENEE LONG,

Respondent-Appellant.

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UNPUBLISHED

December 22, 2009

No. 290807

Livingston Circuit Court

Family Division

LC No. 2008-012538-NA

Before: Murphy, C.J., and Jansen and Zahra, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (j), and (l). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent does not contest the trial court's finding that clear and convincing evidence established the statutory grounds to terminate her parental rights, but argues that the trial court erred in terminating her rights at the initial disposition upon a finding that termination was in the minor child's best interests. With respect to the court's best interests ruling, respondent argues that the trial court improperly relied on her past history, discounted the significant progress she had made, and prematurely severed the family. The trial court conceded that respondent had potential to become a suitable parent, but it noted that the law did not focus on potential. Rather, the court's concern had to be focused on whether there was a reasonable expectation that respondent would be able to provide proper care within a reasonable time.

The minor child tested positive for marijuana at birth and was immediately adjudicated a temporary court ward because respondent's parental rights to two other children had been terminated on June 15, 2007, under MCL 712A.19b(3)(j). During the prior child protective proceedings, which lasted two years, the young teen respondent engaged in services, appeared to make progress, and achieved reunification twice, but she failed to stop using marijuana or to separate herself from an abusive boyfriend who broke and fractured her nine-month-old daughter's ribs and shoulder and who repeatedly abused respondent. Respondent appealed that termination order, but this Court affirmed. *In re Long/Goble Minors*, unpublished opinion per curiam of the Court of Appeals, issued November 29, 2007 (Docket No. 278874).

We conclude that the trial court did not clearly err in finding that the evidence in the present case showed that termination of respondent's parental rights at the initial disposition was in the minor child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). MCL 712A.19b(5) provides:

If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.<sup>1</sup>

This statutory subsection attempts to balance the policy favoring preservation of the family with protection of a child's right to security and permanency. *Trejo, supra* at 354. The evidence showed that between June 2008 and February 2009, respondent voluntarily completed parenting classes, obtained an updated psychological evaluation, participated in counseling, maintained employment and housing, obtained a GED, began nursing school, provided negative drug screens, and appropriately cared for the minor child during visits.

Once a statutory ground for termination is established, a parent's interest in the companionship, care, and custody of the child gives way to the state's interest in protecting the child, and the primary beneficiary relative to the best interests ruling is intended to be the child, not the parent. MCL 712A.19b(5); *Trejo, supra* at 355-356; *In re LaFlure*, 48 Mich App 377, 386-387; 210 NW2d 482 (1973). The trial court expressed three reasons for finding it in the minor child's best interests to terminate respondent's parental rights at the initial disposition and to deny her additional time to prove her ability to properly parent. First, the child had not formed a parent-child bond with respondent but had done so with his foster mother. This finding was supported by evidence that the child had been placed in foster care at birth, that a bond had been formed between the child and his foster mother, and that disrupting the bond would be detrimental to the child. Despite some recognition at visits, a primary caregiver bond was not established between respondent and the child under the circumstances.

Second, the trial court found that respondent's personality disorder attracted her to conflictual relationships and abusive men, and she would require at least one additional year of

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<sup>1</sup> MCL 712A.19b(5) was amended, effective July 11, 2008, to require that the trial court make an affirmative finding that termination of a parent's parental rights is in the best interest of the child. 2008 PA 199. On appeal, respondent incorrectly applies the former best interests standard, which provided:

If the court finds that there are grounds for termination of parental rights, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made, unless the court finds that termination of parental rights to the child is clearly not in the child's best interests.

counseling to achieve even a fair prognosis for maintaining her progress and stability. This finding was supported by the psychological evaluation conducted just days before the best interests hearing. Respondent could not assume custody of the minor child within a reasonable time, but rather the child would need to remain in foster care for an additional year while respondent engaged in more counseling, after which the prognosis for respondent to provide a stable, safe home was only fair.

Third, the trial court found that respondent's history showed a propensity to regress once services and court involvement ceased. This finding was also supported by the record. The facts relative to respondent's prior child protective proceedings clearly showed that respondent was able to successfully complete services and present as though she had changed sufficiently to properly parent, but she did not truly internalize change and regressed into extremely poor decision making as soon as she regained custody of her children. Respondent did not sustain any progress gained during the prior proceedings, which is quite evident from the fact that the minor child here tested positive for marijuana at birth, and respondent's prognosis for making progress in the future was only fair.

For reasons of lack of a bond, respondent's inability to assume custody within a reasonable time, and respondent's history of regression once services and court involvement ceased, the trial court did not clearly err in finding it in the minor child's best interests to terminate respondent's parental rights at the initial disposition, thereby bringing some permanence to the minor child's life.

Affirmed.

/s/ William B. Murphy  
/s/ Kathleen Jansen  
/s/ Brian K. Zahra