

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

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In the Matter of ABMS, AAMS, DNMS, and  
CMS, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CRISTOVAL MEDINA SANCHEZ II,

Respondent-Appellant.

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UNPUBLISHED

December 22, 2009

No. 292996

Grand Traverse Circuit Court

Juvenile Division

LC No. 08-002350-NA

Before: K. F. Kelly, P.J., and Hoekstra and Whitbeck, JJ.

PER CURIAM.

Respondent, Cristoval Sanchez II, appeals as of right from an order that terminated his parental rights to the minor children.<sup>1</sup> We affirm.

**I. Basic Facts And Procedural History**

Cristoval Sanchez's minor children were removed in February 2008 after the children's mother, Amy Sanchez, had threatened suicide. In March 2008, Cristoval Sanchez pleaded responsible to lack of adequate housing to care for the children. And the children were adjudicated temporary wards by way of their parents' pleas on March 6, 2008. The Department of Human Services (DHS), filed a supplemental petition seeking termination of Cristoval Sanchez's parental rights on March 4, 2009. Amy Sanchez, voluntarily released her parental rights on June 18, 2009.

Psychologist Patrick Ryan testified that he met the minor children in March 2008 for court-ordered evaluations. Eight-year-old ABMS reported that Cristoval Sanchez did not live with them. ABMS reported that Cristoval Sanchez was nice, but she could not really express what his positive or negative characteristics were. Ryan interpreted this as a lack of closeness or

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<sup>1</sup> MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if child is returned to parent).

confusion about their relationship. ABMS's evaluation revealed that she had Attention Deficit Disorder, some underlying depression, and some post-traumatic stress. Eleven-year-old AAMS indicated that she wished Cristoval Sanchez would come to the house more often, but she gave excuses for Cristoval Sanchez, such as his lack of resources. AAMS also indicated that Cristoval Sanchez was lazy. AAMS had significant depression and anxiety. She also experienced migraines. Fifteen-year-old DNMS expressed anger at Cristoval Sanchez for cheating on Amy Sanchez. Ryan found DNMS to be "damaged." She was impulsive and had difficulty with her attention. Sixteen-year-old CMS, had a certain look that led Ryan to believe that he had a genetic disorder. He was irritable and difficult to deal with. Like ABMS, CMS indicated that he wished Cristoval Sanchez spent more time with the family. He had an emotional disconnect and lack of interest. He was "schizoid" in that he was aloof and odd. Ryan believed CMS may have schizoaffective disorder, with major depressive difficulties.

Ryan believed that all four children had significant difficulties, although they were not as severe as those noted in earlier reports that Ryan reviewed. Ryan opined that a change in environment may have had something to do with their improvement. While Ryan did not perform an assessment on Cristoval Sanchez, he noted that the children would require "very skilled parenting." Ryan opined that the children would function better in a stable environment and the parent would need to be "attuned and attentive, would need to be a better than average parent."

Psychologist Amelia Siders testified that she conducted a court-ordered evaluation of Cristoval Sanchez in June 2008. Cristoval Sanchez's children were living in lower Michigan, and it had been quite some time since he had seen them in person. Cristoval Sanchez reported that he and his wife had been divorced since 2004. Cristoval Sanchez's son CMS was reported to have Attention Deficit Hyperactivity Disorder, and Cristoval Sanchez "wasn't sure exactly all the psychological problems his children presented with, but they did have some significant issues." Cristoval Sanchez had insulin-controlled diabetes, but denied any other medical conditions. Siders noted that Cristoval Sanchez had difficulty speaking in specific terms regarding the children's psychological problems and that he was not sure of appropriate discipline because "he wasn't sure of some of the more specific behavioral and psychiatric issues with his children." Siders observed that Cristoval Sanchez was calm and cooperative, and he denied problems with anger management. However, the evaluation revealed that Cristoval Sanchez had a high level of defensiveness. Siders opined that Cristoval Sanchez may have presented himself as how he would like to parent as opposed to the reality of what was happening. Siders stated that individual counseling would be challenging, in light of Cristoval Sanchez's tendency to minimize his faults. Siders was concerned about Cristoval Sanchez's ability to deal with the challenges that the children's psychological conditions presented. Siders admitted that there were no specific parenting classes that would help Cristoval Sanchez deal with the children's specific psychiatric difficulties, but that counseling might help target those parenting issues. Siders stated that Cristoval Sanchez would definitely need increased contact with the children in order to assess his ability to parent. And Siders believed that it would be difficult to do such an assessment if Cristoval Sanchez's parenting time was limited to one hour in one room with all four children.

Child Protective Services worker Troy Turner testified that he originally received a referral that CMS was being violent against his siblings. Because Amy Sanchez had troubles of

her own, DNMS did most of the childcare and household tasks. The family was often without food. Amy Sanchez had threatened suicide, resulting in the children being removed from the home. Turner stated that all of the children had "high needs." At the time, Cristoval Sanchez was living with his brother and sister-in-law in a one-bedroom apartment. In Turner's opinion, Cristoval Sanchez was not in a position to care for the children.

Foster care worker Alison Sumerix testified that in March 2008, the goal was reunification with both parents. According to Sumerix, Cristoval Sanchez appeared to be motivated and was employed at one point. But there were questions regarding his ability to parent and budget. Cristoval Sanchez was offered parenting classes, services for budgeting and housing, and a psychological evaluation. Cristoval Sanchez's parenting time was to be supervised and frequent. However, Sumerix testified that Cristoval Sanchez did not utilize the parenting time he was given, even though efforts would have been made to accommodate his work schedule and travel would have been provided. Sumerix stated that the children were originally placed with a relative in lower Michigan, but because the family could not care for them long term, the children were returned up north in July 2008 and placed in foster care. To Sumerix's knowledge, Cristoval Sanchez did not visit with the children from February 2008 until July 2008.

Foster care worker Teri Parsons testified that she became the worker on the case in July 2008 and was the worker for two and a half months. Parsons observed that during supervised visits, there was not a lot of interaction between Cristoval Sanchez and the children. The three girls usually entertained themselves. Cristoval Sanchez would usually sit on the couch and occasionally whisper something to CMS. Cristoval Sanchez attended all of the visits except one, when he called to advise the workers that he would not be there. Cristoval Sanchez told Parsons that he was a janitor and that he could not afford to care for the children. He had been living with his brother and sister-in-law, but he then became homeless and lived at Goodwill Inn. Cristoval Sanchez hoped that Amy Sanchez would be able to reunite with them. Cristoval Sanchez had difficulty managing the children's behavior during visits, but it never rose to the level that Parsons felt she needed to intervene.

Therapist Karen Mueller testified that she knew the four children, having worked with the three girls for the past five years in individual and family counseling. Once Child Protective Services became involved, the focus of counseling was on reunification with Amy Sanchez. When it became apparent that they would not be going back to Amy Sanchez, the focus was on grief and loss. The focus was never on being reunited with Cristoval Sanchez. DNMS, the oldest child, expressed anger toward Cristoval Sanchez for the way he treated Amy Sanchez when they were together. The two younger girls, on the other hand, really wanted to see Cristoval Sanchez and would be disappointed if the visits could not take place. Mueller opined that the children needed stability and consistency over all else because one of the main problems for the children was the chaos of never knowing what was going to happen next. The girls never expressed any desire or level of comfort with being returned to Cristoval Sanchez. They always talked about going to be with their aunt. The girls seemed to anticipate that Cristoval Sanchez's parental rights would be terminated. Mueller opined that termination appeared to be in the children's best interests.

Case aid coordinator Ann Marie Stern testified that she supervised visitation between Cristoval Sanchez and the children approximately a dozen times. Cristoval Sanchez missed 12

to 15 visits over the course of the year. Stern observed that Cristoval Sanchez was passive during the visits, and his demeanor never changed over the course of time. The children appeared to be apathetic and oppositional toward him. While their behavior may have improved over time, their overall attitude and demeanor remained the same. Cristoval Sanchez would often bring food. Stern observed him playing board games with the children. Stern acknowledged that the environment may not have been ideal. It was a very controlled setting, and the two-way mirror may make parents and children feel inhibited. Stern estimated that Cristoval Sanchez spent 40 percent of the time playing a game, reading a book, or engaging in activity. The remaining 60 percent of the time he would converse, or not, with the children.

Foster care specialist Janice Agruda testified that she had been the caseworker since October 2008. As far as housing was concerned, Agruda discovered that Cristoval Sanchez left Goodwill Inn because he could not stay there on a long-term basis. Agruda believed that Cristoval Sanchez was actually living with Amy Sanchez. Cristoval Sanchez reported that he was working at the mall but still struggling to support himself. He had not provided any documentation of employment to Agruda. Cristoval Sanchez missed his last four visits with the children, and the last time he saw the children was in May 2009. Agruda stated that there was no progress in the interaction between Cristoval Sanchez and the children. An attempt was made to have the visits take place outside of the agency, but the children's behavior at the restaurant escalated to the point where Cristoval Sanchez had no control and the visits were moved back to the agency. Agruda described the visits as having a lot of awkward silence. The children mostly entertained themselves. It did not appear to Agruda that Cristoval Sanchez benefited from parenting classes. Agruda testified that the children were very happy at their Aunt Denise's house and wished that Cristoval Sanchez would release his rights. Cristoval Sanchez did not appear to Agruda to be motivated to have the children returned. He seemed to hope to have them placed with Amy Sanchez. Agruda believed that termination was in the children's best interest. Cristoval Sanchez still had not secured adequate housing. The children needed permanency and were ready to move on with their lives. Agruda did not believe that Cristoval Sanchez could take care of the children.

Cristoval Sanchez testified that at the time of trial he was staying with friends or sleeping in his car. He admitted that he was homeless. He was fired from his janitorial job for leaving the bathroom closed for too long. He believed it was just an excuse to get rid of him. Cristoval Sanchez was able to quickly find another job at Sbarro's, where he earned \$7.40 an hour and worked approximately 14 hours a week. He stopped working at Goodwill Technologies when they could no longer afford the program. He did not have a full time job. When asked if he could care for the children, Cristoval Sanchez replied, "I am able to care for them through—if they stay with my family."+

In June 2009, the trial court terminated Cristoval Sanchez's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Cristoval Sanchez now appeals as of right.

## II. Statutory Grounds For Termination

### A. Standard Of Review

To terminate parental rights, the trial court must find that the DHS has proven at least one of the statutory grounds for termination by clear and convincing evidence.<sup>2</sup> We review for clear error a trial court's decision terminating parental rights.<sup>3</sup> 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.<sup>4</sup> We are to give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.<sup>5</sup>

### B. Analysis

The children were removed from Amy Sanchez's home in February 2008, primarily due to her alcohol dependence and threats of suicide. The parents were divorced, and Cristoval Sanchez was living with his brother and sister-in-law in a one-bedroom home and was not in a position to care for the children. The children were adjudicated temporary wards in March 2008, based on the parents' pleas. Cristoval Sanchez was offered parenting classes, services for budgeting and housing, and a psychological evaluation. His parenting time was to be supervised and frequent. He was observed as unengaged. The children mostly entertained themselves.

By the time of the June 2009 termination trial, it was clear that the conditions leading to adjudication continued to exist and that Cristoval Sanchez was simply unable to provide the children with proper care or custody. Cristoval Sanchez remained without housing more than a year after the children were made temporary wards. He alternated between living at Goodwill Inn and his brother's house, and admitted to living in his car at the time of the termination hearing. At the time of the hearing, Cristoval Sanchez was earning \$7.40 an hour and working only 14 hours a week. This was not enough to support himself and four children.

Moreover, the consensus among all of the witnesses was that the children all had psychological issues and were in need of consistency and permanency. Cristoval Sanchez appeared completely ignorant of the fact that the children were "fragile," as one witness put it, and could not speak about their psychological needs. Cristoval Sanchez testified that he was shocked that the children came into care. Yet, the evidence revealed that the entire family had been receiving in-home counseling services, even before Cristoval Sanchez and Amy Sanchez divorced, to deal with the children's behavioral problems at home and at school.

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<sup>2</sup> MCL 712A.19b(3); *In re Sours Minors*, 459 Mich 624, 632; 593 NW2d 520 (1999).

<sup>3</sup> MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 633.

<sup>4</sup> *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

<sup>5</sup> MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

We conclude that the trial court did not clearly err in finding that statutory grounds for termination of Cristoval Sanchez's parental rights were established by clear and convincing evidence.

### III. Best Interests Determination

#### A. Standard Of Review

Once the DHS has established a statutory ground for termination by clear and convincing evidence, if the trial court also finds from evidence on the whole record that termination is clearly in the child's best interests, then the trial court shall order termination of parental rights.<sup>6</sup> There is no specific burden on either party to present evidence of the children's best interests; rather, the trial court should weigh all evidence available.<sup>7</sup> We review the trial court's decision regarding the child's best interests for clear error.<sup>8</sup>

#### B. Analysis

Cristoval Sanchez contends that the trial court erred in its best interests analysis because the only barrier to reunification was lack of housing. We disagree.

The experts agreed that each of the children had special psychological needs. They needed permanence, structure, and stability. Cristoval Sanchez was not in a position to provide any of these. He was without housing or full-time employment. He did not consistently visit the children, and his visits with them did not include a lot of interaction. All of the witnesses, including Cristoval Sanchez, agreed that the children were thriving in their current placement. While the children all expressed a desire to maintain contact with Cristoval Sanchez, it was clear that they never viewed him as a potential caregiver. Therefore, we conclude that the trial court did not clearly err in finding that termination of Cristoval Sanchez's parental rights was in the child's best interests.<sup>9</sup>

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Joel P. Hoekstra  
/s/ William C. Whitbeck

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<sup>6</sup> MCL 712A.19b(5); *Trejo*, 462 Mich at 350.

<sup>7</sup> *Trejo*, 462 Mich at 354.

<sup>8</sup> *Id.* at 356-357.

<sup>9</sup> MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-357.