

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* DENG, Minors.

UNPUBLISHED  
December 20, 2016

No. 333365  
Kent Circuit Court  
Family Division  
LC Nos. 14-053706-NA;  
14-053707-NA;  
14-053708-NA;  
14-053709-NA

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Before: BORRELLO, P.J., and SAWYER and MARKEY, JJ.

PER CURIAM.

Respondent mother appeals by right the trial court order terminating her parental rights to the minor children, ATD, DD, ACD, and ABD, under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist) and (g) (failure to provide proper care and custody). We affirm.

Mother, father, and the four children were living together in New York when mother attempted suicide; Children's Protective Services (CPS) investigated the situation. The family moved to Michigan in 2013. In July 2014, while the children were in mother's care, mother attempted suicide again, and Michigan's CPS opened a case.

In October 2014, while the children were in mother's care, father returned home and found mother unconscious. Apparently, mother had attempted suicide by drinking large quantities of alcohol. Father called the police and requested an ambulance for mother. Mother was hospitalized, and the children were left in father's care. On October 21, 2014, a petition was filed, alleging that mother failed to provide proper or necessary support for the children's health or morals, or had subjected the children to a substantial risk of harm to their mental well-being, or abandoned the children without proper custody or guardianship. It also alleged that mother's home was an unfit place for the children to live by reason of neglect, cruelty, drunkenness, criminality, or depravity. The children remained in father's care.

At some point during October or November 2014, father and the children went to the Salvation Army for shelter, and the Salvation Army paid for father and the children to stay at a hotel for three nights. A caseworker visited the family at the hotel and found minimal food in the room. During their stay at the hotel, relatives and hotel staff provided food for the children. The children were removed from father's care on December 1, 2014. On December 2, 2014, an

amended petition was filed, alleging that father failed to provide the children with adequate supervision, food, and housing.

A termination hearing was held on May 5, 2016, and it was requested that the court terminate the parental rights of mother and father. The principal concerns regarding mother were housing, mental health, substance abuse, and parenting skills. The evidence established that mother failed to make sufficient progress with regard to parenting skills and mental health. Following the termination hearing, the trial court found that grounds for termination of mother's parental rights to the children were established under MCL 712A.19b(3)(c)(i) and (g). The court also found that termination was in the children's best interests.

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). We review the trial court's determination for clear error. *Id.*; MCR 3.977(K). “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).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *VanDalen*, 293 Mich App at 139. Termination is proper under MCL 712A.19b(3)(c)(i) where the conditions that led to adjudication continue to exist. This Court has held that termination is proper under this ground where the totality of the evidence supports that the respondent has not accomplished any meaningful change in the conditions that led to the adjudication. *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009). Here, the conditions that led to adjudication were housing, mental health, substance abuse, and parenting skills.

The record supports that at the time of termination, mother had rectified some of her barriers to reunification. Mother found adequate housing, maintained employment, and was able to support herself financially. The record also supports that although mother had some problems with substance abuse at the outset of this case, she was able to achieve and maintain sobriety.

On the other hand, the record also supports that mother had not rectified her mental health issues and her deficient parenting skills by the time of the termination hearing. Regarding mental health, the record supports that mother was diagnosed with bipolar disorder and was vulnerable to periods of intense depression, irritability, and anxiety. Mental health counseling and pharmacological intervention were identified and recommended as extremely important for mother's capacity to parent. Although the record reflects that mother participated in services and her mental health improved, the caseworker testified that she did not see sufficient benefit regarding mental health. Mother was prescribed medication to help stabilize her mental health, but she opposed taking her medication, and the caseworker testified that she was concerned that mother would stop taking her medication if the court no longer required her to. Evidence was presented to support that mother was still involved in an unhealthy relationship with father at the time of termination. The caseworker also testified that she was very concerned about mother's involvement with another man and her request that he be allowed to participate in parenting time after only knowing him for a short time. The record also supported that mother lacked social

supports. Shannon Dolan, a foster-care worker, testified that, overall, she did not believe that mother had rectified her inability to engage in healthy relationships, which was an important component of her mental health.

The record also shows that mother had not rectified her parenting skills at the time of the termination hearing. The caseworker testified that, although mother consistently attended parenting visits, she did not benefit from services. The record supports that up until termination, mother's parenting visits were very chaotic, and she did not consistently impose discipline or consequences for the children's poor behavior. The record supports that structure and consequences were very important to the children's behavioral needs. However, mother indicated that she did not believe in structure and would not implement a structured parenting plan because she was not raised that way. The record also supports that mother minimized the children's behavioral problems and was not very sensitive to the children's emotional needs. Thus, the record establishes that mother did not accomplish "any meaningful change" with respect to mental health and parenting skills. *Williams*, 286 Mich App at 272.

Further, the record does not support that mother would be able to rectify her parenting skills or mental health issues within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i). The focus of what constitutes a reasonable time for the conditions to be rectified is both on how long it will take a respondent to improve and how long the involved children can wait. *In re Dahms*, 187 Mich App 644, 648; 468 NW2d 315 (1991). We have held that the Legislature did not intend children to be left in foster care indefinitely. *Id.* at 647.

In this case, the children had been in foster care for around 17 months. Although mother participated in services throughout this case, the record supports that she failed to benefit. Mother continued to engage in unhealthy relationships, did not have much social support, and was opposed to taking medication necessary to help stabilize her mental health. Mother also failed to correct dangerous behaviors during parenting visits and was unable to provide proper discipline and consistency when interacting with her children. Given the length of time already provided and mother's lack of progress, we have no indication that mother would rectify the problems even if given more time. Therefore, the trial court did not clearly err in finding that mother would be unable to rectify the conditions that led to adjudication within a reasonable time.<sup>1</sup>

Next, the trial court did not clearly err in finding that a preponderance of the evidence supported that termination of mother's parental rights was in the children's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). When determining the best interests of the child, the focus

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<sup>1</sup> Because we conclude that there was no error in finding grounds for termination of parental rights under subsection (c)(i), we need not consider whether there were alternative grounds under MCL 712A.19b(3)(g). *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009) (finding that, where "at least one ground for termination existed, we need not consider the additional grounds upon which the trial court based its decision").

should be on the child, not the parent, *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013), and the trial court must consider the record as a whole, *In re JK*, 468 Mich 202, 211; 661 NW2d 216 (2003). The trial court may consider “the child’s bond to the parent, the parent’s parenting ability, the child’s need for permanency, stability, and finality, and the advantages of a foster home over the parent’s home.” *In re Olive/Metts*, 297 Mich App at 41-42 (citations omitted). It may also consider the length of time the child was in foster care, the likelihood that the child could be returned to the parent’s home in the foreseeable future, and compliance with the case service plan. *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012). Other factors include evidence that the child is not safe with the parent and is thriving in foster care, *In re VanDalen*, 293 Mich App at 141, “a parent’s history of domestic violence, the parent’s compliance with his or her case service plan, the parent’s visitation history with the child, the children’s well-being while in care, and the possibility of adoption,” *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014). We review the trial court’s decision regarding the child’s best interests for clear error. *Id.* at 713.

The trial court found that termination of mother’s rights was in the children’s best interests. At the termination hearing, the trial court considered a variety of factors, including mother’s bond with the children, the children’s need for permanence and stability, mother’s mental health and parenting skills, and the possibility of adoption. The record supports that mother was unable to provide proper care to the children. The record established that the children had significant needs and required discipline, structure, permanency, and stability. Mother had not gained enough benefit from her parenting services and was unable to provide sufficient discipline or consistency for the children. Mother also continued to engage in unhealthy relationships, and the caseworker was concerned that mother would stop taking her necessary medication without court order. The record supports that the children would not be safe in mother’s care. Accordingly, the evidence supported, and we conclude, that the trial court did not clearly err finding that termination of mother’s parental rights was in the children’s best interests. *In re White*, 303 Mich App at 713.

We affirm.

/s/ Stephen L. Borrello  
/s/ David H. Sawyer  
/s/ Jane E. Markey