

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
February 28, 2013

In the Matter of COOTE, Minors.

No. 310579  
Lapeer Circuit Court  
Family Division  
LC Nos. J11-11438-01-NA  
J11-11438-02-NA

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AFTER REMAND

Before: WILDER, P.J., and GLEICHER and BOONSTRA, JJ.

MEMORANDUM.

We previously affirmed the order of the trial court holding that there existed at least one statutory ground supporting termination but remanded for further consideration of the children's best interests because the lower court initially failed "to explicitly address whether termination is appropriate in light of the children's placement with relatives" as required by *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d (2012).<sup>1</sup> The trial court held a hearing and made factual findings on the record per *In re Mason*, 486 Mich 142; 782 NW2d 747 (2010). Based on the trial court's findings from a hearing held on December 05, 2012, we affirm the termination of parental rights.

We review the trial courts termination decision for clear error. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Although respondent argues that the trial court, on remand, again failed to "determine whether the termination of parental rights was in the best interests of the minor children when considering they were in relative placement" and failed to consider the possibility of creating juvenile guardianship in lieu of termination, we find no clear error in the trial court's determination. The trial court noted that the children were placed with their aunt and uncle in April of 2011, that the placement was appropriate, that the children were doing well in the placement, and that "subsequent to the termination they, aunt and uncle . . . filed for a juvenile guardianship for the boys in order to provide permanency for them." The trial court noted the children's interest in permanency and determined that it was in their best interest

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<sup>1</sup> *In re Coote Minors*, unpublished opinion per curiam of the Court of Appeals, issued November 18, 2012 (Docket No. 310579).

for termination to proceed. The trial court also incorporated by reference its previous best interest determination, including the resentment and fear engendered in the children when respondent abuses alcohol.

“In deciding whether termination is in the child’s best interests, the 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.” *Olive/Metts*, 297 Mich App at 42 (citations omitted). Although MCL 712.19a(7) permits the trial court to create a juvenile guardianship in lieu of termination, it does not require the trial court to do so. The trial court may terminate parental rights notwithstanding a juvenile guardianship if it makes the appropriate best interest determination. See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004). Here, the trial court considered the factors articulated in *Olive/Metts* and explicitly considered the children’s current placement with relatives. 297 Mich App at 42 (citations omitted). After careful review, the trial court decided that termination was in the child’s best interests. The court was therefore required to terminate respondent’s parental rights and cease efforts at reunification. *Id.*, citing MCL 712A.19b(5) and MCR 3.977(E)(4).

Affirmed.

/s/ Kurtis T. Wilder  
/s/ Elizabeth L. Gleicher  
/s/ Mark T. Boonstra