

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

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In the Matter of JUSTIN LEMONS and JOSHUA  
LEMONS, Minors.

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DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
November 17, 2005

Petitioner-Appellee,

V

TAMARA LEMONS,

Respondent-Appellant.

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No. 260870  
Macomb Circuit Court  
Family Division  
LC No. 03-055072-NA

Before: Davis, P.J., and Fitzgerald and Cooper, JJ.

PER CURIAM.

Respondent appeals from the trial court's order terminating her parental rights to her minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The children in this case were removed from respondent's home in July 2003 after police officers found cocaine, marijuana and a loaded pistol inside her home and reported that her home was in "total disarray," "filthy," "nearly unlivable and deplorable." The children also reported domestic violence in the home between Charles Stiltner, respondent's live-in partner, and respondent, including an incident where Stiltner held a gun to respondent's head. Respondent was subsequently placed on probation concerning the July 2003 incident. In October 2003 the court ordered respondent to comply with the terms of her parent-agency agreement, part of which required her to address her substance abuse issue. In March 2004 respondent was arrested again after police officers, pursuant to a search warrant, found cocaine in her home. In June 2004, after petitioner previously provided respondent with several referrals, respondent began substance abuse counseling, which she regularly attended for the next six months. Respondent also consistently submitted to drug screens during the last six months of the proceedings. By the time of the termination trial in January 2005, over eighteen months after the children were removed from her home, respondent expected to be sentenced to "drug court," an intensive, 21-month drug treatment program, on the basis of the pending charges stemming from the March 2004 incident.

Respondent first claims on appeal that the trial court clearly erred in finding that statutory grounds existed for terminating her parental rights. We disagree.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). “Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child’s best interests.” *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). We review the trial court’s determination for clear error. *Trejo*, *supra* at 356-357.

In the fifteen months since the trial court entered the initial dispositional order, respondent failed to rectify her substance abuse issue, the primary condition leading to adjudication, and the evidence showed that she would not likely rectify the condition within a reasonable time considering the children’s ages. MCL 712A.19b(3)(c)(i). She began to address the issue by regularly attending substance abuse counseling and consistently submitting drug screens for the past six months. However, she was arrested pursuant to a drug raid that recovered a significant amount of cocaine from her home, and that occurred during the proceedings, nine months after the children were removed from her care, and while she was still on probation from the July 2003 incident. Also during the proceedings, she submitted two positive and several diluted drug screens, and she missed several drug screens. She continued to associate with Charles Stiltner, despite his arrests at both drug raids and the children’s stated fear of him.

At the time of the termination trial, respondent was expecting to participate in an intensive 21-month drug program as part of her impending sentence for the March 2004 incident. The children had already been in care for more than 18 months by that time. Respondent admitted at the termination trial that she was not ready to have the children returned to her care and that it would be difficult to meet the children’s medical needs<sup>1</sup> because she had “too much on her plate” given the “intense supervision of drug court and working full time.” The caseworker doubted that respondent would be able to make substantial progress anytime soon given her inability to do so throughout the lengthy proceedings. Clearly, respondent had not rectified her substance abuse issue by the time of the termination trial. We agree with the trial court that an additional 21 months was too long for the children to wait to reunify with respondent, especially given their clear need for stability due to their very serious medical condition. Thus, respondent would not likely be able to rectify the condition leading to adjudication within a reasonable time.

The evidence also supported termination of respondent’s parental rights under MCL 712A.19b(3)(g). Respondent failed to provide proper care and custody for her children in the past by allowing drugs in her home and failing to maintain a suitable home. In addition to the

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<sup>1</sup> The children were diagnosed with nephrotic syndrome, a kidney disease, which if left untreated results in renal failure and possibly death. The condition was very difficult to treat and the children’s treatment included complex, daily peritoneal dialysis to cleanse the blood of toxins, subcutaneous shots, taking steroids and a variety of medications and strict dietary restrictions. By the time of the termination trial, Justin also required a kidney transplant, which would require additional treatment.

drugs found in respondent's home during the proceedings, police and caseworkers observed dog feces throughout the home, overflowing garbage in the kitchen, piled up dishes in the sink and on the counter, a broken window with glass on the floor and a broken front door and that the house was "very cluttered and not very clean." Respondent's electrical and gas services were shut off for a period during the proceedings, which was especially concerning because one of the children required nightly dialysis. Respondent's aunt testified that respondent's house was always a mess and the toilet never worked. Respondent testified at the termination trial that she had recently made physical improvements to her home and there was heat, water, and electricity. However, given that respondent was admittedly not ready to care for her children by the time of the termination trial, was unable to maintain a clean or suitable home throughout the proceedings despite the children's increased risk of infection due to their medical condition, and failed to make substantial progress towards complying with the terms of her parent-agency agreement, the evidence clearly showed that respondent would not likely be able to provide proper care and custody within a reasonable time considering the children's ages.

We also find that respondent's inability to adequately address her substance abuse issue throughout the proceedings, her inability to maintain clean and suitable housing, and her continued association with Stiltner despite the children's fear of him, provided clear evidence that the children would likely be subjected to physical or emotional harm if returned to her care. MCL 712A.19b(3)(j).

Furthermore, the trial court did not clearly err in its best interests determination. The testimony indicated that the children desired to remain in contact with respondent and that she had the capacity to parent the children, although she admittedly was not ready to care for the children by the time of the termination trial. However, the testimony also indicated that the children did not desire to return to and did not feel safe in respondent's home, that the children showed significant improvement while outside of respondent's care, and that the custodial aunt provided the children with the stability they needed, especially given their serious medical condition. The evidence did not establish that termination of respondent's parental rights was clearly not in the children's best interests. *Trejo, supra* at 354; MCL 712A.19b(5). Accordingly, termination of respondent's parental rights was appropriate.

We decline to address respondent's remaining argument alleging that the trial court made evidentiary errors during the termination trial, because she failed to raise the issues in her Statement of Questions Presented. *McGoldrick v Holiday Amusements Inc*, 242 Mich App 286, 298; 618 NW2d 98 (2000); MCR 7.212(C)(5).

Affirmed.

/s/ Alton T. Davis  
/s/ E. Thomas Fitzgerald  
/s/ Jessica R. Cooper