

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

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In the Matter of CHRISTOPHER ELLIS  
BARNER, TORA ANGELINA BARNER, and  
ASHLEY FRANCES BARNER, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARY ETTA BARNER,

Respondent-Appellant,

and

ROBERT PAUL BARNER, JR.,

Respondent.

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DEPARTMENT OF HUMAN SERVICES,

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v

ROBERT PAUL BARNER, JR.,

Respondent-Appellant,

and

MARY ETTA BARNER,

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UNPUBLISHED

August 26, 2008

No. 282179

Ingham Circuit Court

Family Division

LC No. 05-002535-NA

No. 282180

Ingham Circuit Court

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Respondent.

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Before: Markey, P.J., and Whitbeck and Gleicher, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal by right the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

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 Trejo*, 462 Mich 341, 350-352; 612 NW2d 407 (2000). "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." *Id* at 354; MCL 712A.19b(5). We review the trial court's determination for clear error. *Trejo, supra* at 356-357; MCR 3.977(J). A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). This Court must recognize the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); MCR 2.613(C).

The primary condition leading to the children's removal from respondents' care and their subsequent adjudication was respondents' failure to protect their eight-year-old daughter from sexual abuse by their 14-year-old son and their inability to provide a safe environment for the children. The evidence showed that during the almost two-year proceedings respondents attempted to address their issues by participating in and complying with extensive services from numerous providers. Despite respondents' compliance with services, however, testimony by the service providers and caseworker, as well as respondents' psychological evaluations by two evaluators, overwhelmingly established that respondents failed to progress or benefit from the services necessary to improve their parenting. Respondents were not able to attain the ability or skills necessary to provide an emotionally safe and supportive environment for the children, and they would likely not benefit from additional services to enable them to do so. Under such circumstances, we find that respondents failed to rectify the conditions that led to the adjudication, MCL 712A.19b(3)(c)(i), and remained unable to provide proper care and custody for the children, MCL 712A.19b(3)(g). "[I]t is not enough to merely go through the motions; a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody." *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

Considering respondents' poor prognosis for positive change, we find that the evidence also clearly established that respondents would not likely be able to provide an emotionally safe or supportive environment for their children within a reasonable time, if ever, supporting

termination under MCL 712A.19b(3)(c)(i) and (g). It would be unfair for the children to wait any longer for respondents to attempt to work towards reunification. By the time of the termination trial, they had been outside of respondents' care for almost two years, and testimony indicated that they were doing well in their placements, were making progress in therapy, and needed permanence and a safe environment.

Given the professional opinions indicating that respondents could not provide for the children emotionally and the children would be subjected to emotional harm if returned to their care, we likewise find that the evidence clearly established that a reasonable likelihood existed that the children would be harmed emotionally if returned to respondents' care, supporting termination under MCL 712A.19b(3)(j). Although as respondent-mother argues on appeal, respondents' son no longer lived in their home, and therefore no longer posed a threat to respondents' daughters if the girls were returned, respondents clearly remained unable to provide an environment necessary to their children's emotional well-being, which put the girls at a risk of harm regardless of the presence of respondent's son in the home. Likewise, it was evident that they could not provide an emotionally safe, supportive, or nurturing environment for their son.

We recognize that testimony from a number of friends and family members indicated that respondents could provide physically and emotionally for the children, and respondents' own testimony indicated that they believed they had benefited from services. Still, we find that the testimony of every service provider indicating otherwise provided convincing evidence of respondents' continued inability to provide emotionally for the children. We defer to the trial court on issues of credibility, *Miller, supra* at 337, and it was clear from the court's opinion that the court found the testimony of the service providers to be credible. On this record, the trial court did not clearly err in finding that the evidence sufficiently supported termination of respondents' parental rights under MCL 712A.19b(3)(c)(i), (g), and (j).

Finally, the trial court did not clearly err in its best interests determination.<sup>1</sup> *Trejo, supra* at 356-357. Respondents, friends, and family members testified that there was a bond between respondents and their children, that respondents could provide emotionally and physically for the children, and that the children would be safe in respondents' care. But the evidence of a bond did not clearly overwhelm respondents' lack of progress with services and their continued inability to satisfy the children's emotional needs and provide them with a safe, supportive, and nurturing environment. *Id.* at 364. We also note that both the caseworker and the daughters' therapist questioned the strength of the bond between respondents and the children. On this record, we find that the evidence failed to establish that termination of respondents' parental rights was clearly not in the children's best interests.

Finally, although respondents' son expressed a desire to be near his family, the trial court also did not clearly err in terminating respondents' parental rights to him, considering respondents' clear inability to provide an emotionally safe environment for or meet the

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<sup>1</sup> We note that the trial court went beyond the requirements of MCL 712A.19b(5) by affirmatively finding that termination is in the children's best interests. *Trejo, supra* at 364 n 19.

children's emotional needs. Additionally, the caseworker opined that the son's returning home would negatively impact the emotional well-being of respondents' daughters. We find no clear error in the trial court's termination decision.

We affirm.

/s/ Jane E. Markey  
/s/ William C. Whitbeck  
/s/ Elizabeth Gleicher