

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

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In the Matter of MALIK OMARI STEELE, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LONIQUE RENEE STEELE,

Respondent-Appellant.

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UNPUBLISHED

October 7, 2008

No. 284393

Wayne Circuit Court

Family Division

LC No. 02-411601-NA

Before: O’Connell, P.J., and Smolenski and Gleicher, JJ.

PER CURIAM.

Respondent appeals as of right from a circuit court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i) [the parent’s act caused physical injury or physical abuse to the child, and a reasonable likelihood exists that the child will suffer injury or abuse in the foreseeable future if placed in the parent’s home]; (g) [irrespective of intent, the parent fails to provide proper care and custody and no reasonable likelihood exists that she might do so within a reasonable time given the child’s age]; and (j) [a reasonable likelihood exists, based on the parent’s conduct or capacity, that the child will suffer harm if returned to the parent’s home]. We affirm, and decide this appeal without oral argument pursuant to MCR 7.214(E).

**I. Facts and Proceedings**

In July 2002, police responded to a tip that respondent had left her one-month-old baby at the home of Gregory Wright, the child’s putative father, without clothing or food.<sup>1</sup> Wright reported to the police that he “brought [respondent] back over to his residence ... to retrieve her baby.” According to Wright, respondent “stated that she didn’t want anything else to do with” the child. On July 28, 2002, petitioner filed a petition seeking circuit court jurisdiction over, and temporary custody of, the child. After conducting a preliminary hearing, a circuit court referee authorized the petition and ordered petitioner to place the child with a relative.

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<sup>1</sup> Another man later established paternity, and then voluntarily relinquished his parental rights.

On October 8, 2002, a referee conducted an adjudication trial. Respondent, then aged 19, testified that she had requested Wright's assistance in caring for the child after her apartment building "exploded," and she had nowhere to stay besides a temporary hotel room. Respondent claimed that she had arranged for Wright's mother to care for the child, and denied any intent to abandon the baby. The circuit court exercised jurisdiction over the child, continued his placement with a relative, and ordered respondent to participate in services.

Respondent subsequently completed parenting classes, enrolled in therapy, and consistently provided negative drug screens. At a permanency planning hearing conducted on July 17, 2003, a caseworker reported that respondent and the child resided at respondent's grandfather's home. The caseworker recommended that the child remain a temporary court ward, and that respondent continue with therapy. The referee accepted this recommendation.

At a dispositional review hearing on January 16, 2004, a caseworker testified that respondent lacked gainful employment and stable housing, and had expressed ambivalence regarding potential termination of her parental rights. The caseworker recommended that petitioner file a permanent custody petition. The referee declined the worker's recommendation to order the filing of a permanent custody petition, and instead continued the child in his relative placement. The referee urged respondent to make a decision regarding whether she wanted the court to terminate her parental rights.

On February 11, 2004, petitioner filed a petition seeking termination of respondent's parental rights. At the outset of a scheduled adjudication trial on May 3, 2004, petitioner voluntarily dismissed the petition. Counsel for petitioner explained that petitioner sought to "give the mother some more time to plan," even though the child had been in care for "a little over 20 months." The referee instructed respondent to complete her treatment plan, or "another petition for permanent custody will be filed and you'll be fighting to keep your rights." At a permanency planning hearing in July 2004, the referee noted that respondent resided in a suitable apartment, had maintained employment, and was attending individual counseling. Petitioner recommended that the child be returned to respondent as soon as she obtained appropriate childcare. Respondent regained custody of the child approximately a month later.

On October 9, 2004, petitioner filed a second petition seeking termination of respondent's parental rights. The supplemental petition alleged that less than a month after regaining custody of her child, respondent had an altercation with her aunt, which ultimately resulted in respondent's arrest. According to the supplemental petition, respondent quarreled with her aunt and other family members regarding childcare for the minor, and respondent then "put her son out of her car into the street." The supplemental petition further alleged that respondent deliberately drove her car into her aunt, causing her serious injury.

Respondent failed to attend an adjudication held on December 9, 2004. Respondent's aunt testified that on September 13, 2004, respondent arrived at her grandfather's home, "took the baby and thr[e]w him on the couch," and stated that her 81-year-old grandfather would have to keep him. The aunt described that she carried the child to respondent's car and instructed respondent to place him in a car seat, but that respondent instead placed the child in the street. The aunt recalled that when she ran into the street "to get the baby," respondent "proceeded to accelerate," and "ran over me." The referee authorized the supplemental petition and ordered that the child remain a temporary court ward.

At a dispositional review hearing conducted on March 3, 2005, a foster care worker reported that respondent had not contacted him since December 2004, and no longer participated in services. A referee ordered respondent to participate in domestic violence counseling, and advised her that “your ability to cope with your frustration and anger is a key component to you being able to have your child returned to you.”

At a dispositional review hearing in September 2005, a caseworker reported that respondent lacked suitable housing and required additional therapy. During a dispositional review hearing in December 2005, a caseworker described that respondent was homeless, failed to maintain regular communication, and had not made sufficient progress in her treatment plan. The worker recommended termination of respondent’s parental rights. The referee declined to order petitioner to file a permanent custody petition, reasoning that respondent possibly suffered from unaddressed mental health problems. The referee ordered a psychiatric evaluation.

At a March 2006 dispositional hearing, a caseworker reported that several months earlier, respondent had been hospitalized after having “an emotional breakdown.” The referee observed that despite her breakdown, respondent had regained employment, communicated with the foster care worker, and visited the child daily. Respondent continued to comply with her treatment plan, and in September 2006, the circuit court dismissed the supplemental permanent custody petition and returned the child to respondent’s care.

On November 5, 2007, the circuit court again removed the child from respondent, after respondent’s mother reported that respondent had severely beaten the child with a belt. On November 29, 2007, petitioner filed a petition seeking termination of respondent’s parental rights. The circuit court conducted a termination hearing on February 7 and March 3, 2008. Respondent’s mother testified that respondent had admitted hitting the child with a belt “until his back was bleeding,” and claimed that respondent “whoops him all the time.” Respondent’s mother expressed fear that respondent would accidentally kill the child, and continued, “I mean it’s happening all the time and it’s scary.”

Respondent admitted that she had struck the child with a belt on one occasion “[a]bout five times,” and estimated that she had disciplined him in this manner eight to 10 times during the past year. Respondent also admitted that she had recently been arrested after she “pulled a gun” on the child’s biological father. Respondent claimed that her relatives continued to make up stories about her “[t]o control me.” A foster care worker testified that the child had no bond with respondent, and expressed a desire to remain in his current placement with a relative.

The circuit court concluded that clear and convincing evidence supported termination of respondent’s parental rights pursuant to MCL 712A.19b(3)(b)(i), (g) and (j). In its bench opinion, the circuit court explained,

It is clear, based on the testimony of all the parties that Mother had physically abused this child for a prolonged period of time. It’s amazing to me that, although Mother has received services for over four years, she doesn’t understand that it is not appropriate to physically discipline a child who is five years old. Also I am concerned—based on the testimony it’s clear that Mother has engaged in domestic violence with a number of individuals. ... Those issues

continue to be a concern as to whether or not mother has the ability to parent this child.

The circuit court also determined that “there’s no reasonable expectation that mother would benefit from additional services being in place,” and “there is no evidence to show that termination of mother’s parental rights is clearly not in this child’s best interest.”

Respondent now appeals as of right.

## II. Analysis

Respondent contends that insufficient evidence supported the circuit court’s reliance on subsections (b)(i), (g) and (j). This Court reviews for clear error a circuit court’s finding that a ground for termination has been established by clear and convincing evidence “and, where appropriate, the court’s decision regarding the child’s best interest.” *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005) (internal quotation omitted); see also MCR 3.977(J). Clear error exists when some evidence supports a finding, but a review of the entire record leaves the reviewing court with the definite and firm conviction that the lower court made a mistake. *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996).

These proceedings commenced in July 2002, when respondent left her six-week-old son at the home of the child’s putative father, without food, clothing or supplies. During the next two years, respondent intermittently participated in services, and finally achieved stable housing and employment. However, within weeks after regaining her child’s custody, respondent engaged in a violent altercation with her aunt, during which she subjected her child to a risk of harm. The circuit court afforded respondent yet another two years to rectify the conditions that led to the second adjudication. But within weeks after regaining custody for the second time, respondent severely beat her child with a belt. The record evidence reflects that despite a lengthy period of therapy and services, respondent failed to develop a capacity to control her anger and frustration. Clear and convincing evidence supported the circuit court’s conclusion that respondent failed to provide proper care or custody for the child, and that there existed no reasonable likelihood that respondent would remedy her parenting deficiencies within a reasonable time given the child’s young age. Consequently, the circuit court properly invoked subsection (g) as a basis for termination.

Clear and convincing evidence also supported the circuit court’s reliance on subsection (b)(i) as a ground for terminating respondent’s parental rights. Respondent admitted that she used a belt to discipline the child, and had beaten him with a belt on multiple occasions during the preceding year. Despite parenting classes, domestic violence counseling, and individual therapy sessions, respondent lacked insight regarding proper parenting, and repeatedly abused her child. Although respondent contends on appeal that she should have been afforded more time to comply with another parent-agency agreement, ample evidence establishes that she utterly failed to benefit from previous services, and that no reasonable likelihood existed that her behavior would change. Consequently, the circuit court properly invoked subsection (b)(i) as a basis for termination.

On the basis of the same clear and convincing evidence, the circuit court properly terminated respondent’s parental rights pursuant to subsection (j), correctly concluding that the

child would likely suffer harm if returned to respondent's care. Further, we find no clear error in the circuit court's finding that termination was not contrary to the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000).

Affirmed.

/s/ Peter D. O'Connell  
/s/ Michael R. Smolenski  
/s/ Elizabeth L. Gleicher