

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

---

In the Matter of HAILEE RUTH ANN KOTEWA  
and JUSTIN MARK TY THOMPSON, Minors.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MANDY CRAMER,

Respondent-Appellant,

and

JON KOTEWA and TOMMY THOMPSON,

Respondents.

---

In the Matter of JUSTIN MARK TY  
THOMPSON, Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TOMMY THOMPSON,

Respondent-Appellant,

and

MANDY CRAMER,

Respondent.

---

UNPUBLISHED  
November 6, 2008

No. 285418  
Bay Circuit Court  
Family Division  
LC No. 06-009483-NA

No. 285679  
Bay Circuit Court  
Family Division  
LC No. 06-009483-NA

---

Before: Beckering, P.J., and Borrello and Davis, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons set forth below, we affirm. These appeals have been decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *Trejo*, *supra* at 355-357; *Sours*, *supra* at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is 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); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller*, *supra* at 337.

The trial court did not err when it terminated respondent-mother's parental rights under MCL 712A.19b(3)(c)(i) because her drug use, which led to the adjudication, continued to exist at the time of the permanent custody hearing. Respondent-mother did not fully commit herself to treatment until after the children were again removed from her care in December 2007 following a relapse. By the time of the permanent custody hearing in April 2008, respondent-mother had not demonstrated a sustained period of a drug-free lifestyle. Given that drug rehabilitation is a lifelong process for individuals with extensive drug use history like respondent-mother's, and that she relapsed as recently as December 2007, there is no evidence that she would be able to rectify her drug use within a reasonable time.

Further, although respondent-mother claims she was fully committed to family reunification, her decision to jeopardize her own treatment by allowing respondent-father to stay in her apartment at the treatment facility suggests she was not as committed to changing her lifestyle and focusing on her children's return as she states. Likewise, because honesty is a major component of the rehabilitation process, respondent-mother's dishonesty throughout the case demonstrates her lack of commitment to family reunification. Respondent-mother was not forthcoming with the foster care worker about her use of Oxycontin or alcohol. She did not tell those in charge of her drug treatment program that she had previously been addicted to methadone and let them consider treating her with it. She lied about respondent-father's presence in her apartment and harbored him for two weeks in violation of the treatment program's rules. Respondent-mother has been driving without a valid driver's license and violated the court's order prohibiting contact with respondent-father. Respondent-mother also told Hailee to lie about the movies she let the child view.

Under MCL 712A.19b(3)(g), respondent-mother is unable to provide proper care and custody for the children because she has not been able to demonstrate that she can maintain a drug-free lifestyle. She cannot provide proper care for Hailee and Justin while she is using drugs or relapsing. And, although respondent-mother was employed and had a two-bedroom apartment, this housing came to her through her drug treatment provider. Throughout the case, she relied on them for support and never demonstrated an ability to obtain and maintain independent housing and childcare.

Finally, termination of parental rights was proper under MCL 712A.19b(3)(j). Until respondent-mother has demonstrated that she can maintain a drug-free lifestyle, she poses a risk of harm to the children. The safety concerns created by respondent-mother's drug use and impaired judgment were evidenced in Hailee's reports of how she had to hold Justin's head above water when respondent-mother left them alone in a filling bathtub. On another occasion, while driving back to Port Huron, respondent-mother was falling asleep and Hailee had to keep throwing water on her face to keep her awake. Respondent-mother blamed her sleepiness on medication she had taken.

The court also did not err when it terminated respondent-father's parental rights under MCL 712A.19b(3)(c)(i) because at the beginning of the case he had substance abuse problems and has not entered treatment to address his drug use. There is no evidence that respondent-father has overcome his drug addiction and changed his lifestyle. Respondent-father's March 2008 psychological evaluation indicated that he began smoking marijuana at age twelve and using cocaine at age thirteen. He used daily until December 2007. He has had only brief periods of abstinence from drugs. Respondent-father remains at high risk for relapse and does not have his substance abuse problem under control.

Termination of respondent-father's parental rights was also proper under MCL 712A.19b(3)(c)(g). Respondent-father has not provided proper care or custody and has not presented himself as a person who is able to provide a custodial arrangement for Justin. There is no evidence that respondent-father is employed or has suitable housing in which to care for a young child. As his psychological evaluation notes, his overall parenting skills are inadequate due to chronic antisocial behaviors and persistent substance abuse.

Finally, termination of respondent-father's parental rights was proper under MCL 712A.19b(3)(j) because his drug use presents a dangerous environment for a young child. The way he and respondent-mother lived with drug needles in full view of the children is not a safe environment. There is no evidence that he has made changes to this harmful lifestyle.

Respondent-father argues that upon his release from jail he called the foster care worker and made a legitimate effort to pursue a treatment plan but was never provided an opportunity to participate in services. He argues that he demonstrated the initiative to complete a psychological evaluation and also attempted to participate in the phone system for random drug testing. Where the case proceeds under an original petition for termination of parental rights, petitioner is not required to provide a treatment plan nor are reasonable efforts required for reunification. MCL 712A.19b(5); MCR 3.977(E). Respondent-father was unavailable to work on his treatment plan throughout most of the case due to his own criminal involvement. Although he demonstrated some interest by contacting the foster care worker upon his release from jail, he made excuses

regarding his ability to participate in the random drug screens by phone and never demonstrated that he had overcome his extensive drug addiction.

Finally, the trial court did not clearly err by finding that termination of the parental rights of both respondents was not contrary to the best interests of the children. MCL 712A.19b(5). Respondent-mother argues that termination of her parental rights is contrary to Hailee's and Justin's best interests because she participated in services and benefited from the treatment plan. It is necessary but not sufficient to physically comply with the terms of the treatment plan. *In re Gazella*, 264 Mich app 668, 676; 692 NW2d 708 (2005). The record does not show that respondent-mother can safely care for Hailee and Justin or that she is able to demonstrate proper judgment and live a drug-free lifestyle.

Respondent-mother argues that she is bonded to her children. However, it takes more than a bond between parent and child for the court to find that termination of parental rights is clearly contrary to the children's best interest. Respondent-mother could not demonstrate that she could put her children's needs before her own to overcome her drug problem. The record shows that Hailee and Justin needed permanence. The uncertainty of respondent-mother's situation caused instability for both children and caused Hailee emotional distress.

There is also no evidence on the record that termination of respondent-father's parental rights was clearly contrary to Justin's best interests. There was no evidence of a bond between respondent-father and Justin. Respondent-father argues that the court was unwilling to wait another six to nine months to gauge his success in addressing his problems. However, the court had already given him fifteen months to address the issues that brought his family to the court's attention. The court was unwilling to give him additional time because this additional time was causing instability and emotional angst for Justin and was contrary to his best interests. The best interests of Justin were served by a speedy resolution of the case so he could have permanence and stability.

Affirmed.

/s/ Jane M. Beckering  
/s/ Stephen L. Borrello  
/s/ Alton Davis