

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ZACHARIAH ZION  
THOMPSON, ISAIAH THOMPSON, and  
ARAMANIA SMITH, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHARON D. SMITH,

Respondent-Appellant.

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UNPUBLISHED

January 27, 2009

No. 286114

Wayne Circuit Court

Family Division

LC No. 97-361414-NA

Before: Hoekstra, P.J., and Fitzgerald and Zahra, JJ.

PER CURIAM.

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

Respondent argues that the trial court clearly erred in finding that a statutory ground for termination was established by clear and convincing evidence. We reject this argument for several reasons. First, respondent stipulated below that based on the previous termination of her parental rights to two older children and the physical abuse of her younger children as substantiated by the medical records there was clear and convincing evidence to establish a statutory ground for termination. A party may not seek redress on appeal by taking a position contrary to that argued in the trial court. *Phinney v Perlmutter*, 222 Mich App 513, 544; 564 NW2d 532 (1997). Second, on appeal, respondent addresses §§ 19b(3)(a)(ii), (a)(iii), and (k), which were not mentioned by the trial court below, yet fails to address §§ 19b(3)(a)(i), (b)(ii), (b)(iii), and (i), on which the trial court expressly relied as bases for termination. Respondent's failure to address these additional bases for termination precludes relief with respect to the question whether a statutory ground for termination was sufficiently established. See *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987). Third, in light of the evidence that respondent failed to protect her older children from sexual abuse and that her parental rights to those children were terminated, see *In re Williams*, unpublished opinion per curiam of the Court of Appeals, issued August 22, 2000 (Docket No. 222288), that respondent's parenting abilities had not improved since her parental rights to the older children were terminated, and that respondent more recently failed to protect her younger

children from physical abuse, the trial court did not clearly err in finding that §§ 19b(3)(b)(ii), (b)(iii), (g), (i), and (j) were each established by clear and convincing evidence.<sup>1</sup> MCR 3.977(J); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989).

Respondent also challenges the trial court's best interests decision. Once a statutory ground for termination is established, "the court shall order termination of parental rights . . . unless the court finds that termination . . . is clearly not in the child's best interests." MCL 712A.19b(5). That determination is reviewed for clear error. *In re Trejo*, 462 Mich 341, 353-354, 356; 612 NW2d 407 (2000).

The evidence showed that while there was some love, affection, and bonding between the children and respondent, it was not substantial. While the children were in respondent's care, respondent failed to enroll Isaiah in school and failed to protect all three children from her abusive boyfriend. Respondent continued her relationship with her boyfriend even after the allegations of abuse were substantiated. One child has serious psychiatric problems resulting in two hospitalizations, and he tried to kill himself and his siblings. The evidence did not clearly show that termination of respondent's parental rights was not in the children's best interests. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ E. Thomas Fitzgerald  
/s/ Brian K. Zahra

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<sup>1</sup> We agree that § 19b(3)(a)(i) applies only to Aramania's father, and not to respondent.