

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

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UNPUBLISHED  
November 16, 2010

In the Matter of WARREN, Minors.

No. 296330  
Livingston Circuit Court  
Family Division  
LC No. 2006-011565-NA

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Before: CAVANAGH, P.J., and HOEKSTRA and GLEICHER, JJ.

PER CURIAM.

Respondents appeal as of right the trial court order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(b), (c)(i), (g), (j), and (k)(ii).<sup>1</sup> We affirm.

Respondents have a lengthy history with Children's Protective Services (CPS) dating back to the infancy of their oldest daughter in the 1990s. Despite repeated services, respondent-father continued to direct physically abusive punishment at the children, including beatings with belts and a plastic vacuum cleaner attachment. Respondent-mother failed to prevent the abuse, and sometimes inflicted it herself. Respondent-mother was also treated for mental illness that sometimes interfered with her ability to protect or provide proper care for the children.

The trial court obtained jurisdiction over respondents' four children in 2006, after respondents left the children at home alone, and one child attempted to strangle himself with an extension cord. Three of the children were placed in foster care, and one child was placed in residential treatment. Respondents were provided with numerous services and the children were eventually returned to respondents' home in 2008. All of the children experienced serious problems while in respondents' care, including delinquent behavior, substance abuse, self-destructive behavior, and suicide attempts. The oldest child subsequently revealed that respondent-father had sexually abused her several years earlier. In September 2009, petitioner filed a petition to terminate respondents' parental rights. Following a lengthy hearing over a three-month period, the trial court terminated respondents' parental rights to the children.

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<sup>1</sup> Respondent-father's parental rights were terminated under §§ 19b(3)(b)(i), (c)(i), (g), (j), and (k)(ii), and respondent-mother's parental rights were terminated under §§ 19b(3)(b)(ii), (c)(i), (g), and (j).

Both respondents argue that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence, and in finding that termination of their parental rights was in the children's best interests. We disagree.

A statutory ground for termination must be proven by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 355; 612 NW2d 407 (2000). In reviewing a trial court's decision to terminate parental rights, this Court reviews "for clear error a trial court's factual findings as well as its ultimate determination that a statutory ground for termination of parental rights has been proved by clear and convincing evidence." *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010); see also MCR 3.977(K). Once a statutory ground for termination is established, the trial court shall order termination of parental rights if it finds that termination is in the child's best interests. MCL 712A.19b(5). The trial court's best interests decision is also reviewed for clear error. *In re Trejo Minors*, 462 Mich at 356-357. "A finding is 'clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.'" *Id.*, quoting *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (alteration omitted). This Court gives deference to the trial court's special opportunity to observe and judge the credibility of witnesses. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

The evidence showed that respondent-father had a history of physically abusing his children under the guise of discipline, and that he failed to recognize the risks that he presented to his children's safety or understand the effects of his behavior on their emotional welfare. Although he testified that he had come to realize that his former discipline methods were not appropriate, and that he no longer intended to use physical punishment, he also continued to defend his methods and failed to understand the effects of his conduct on the children. The results of a psychological evaluation revealed that he did not really believe that his use of corporal punishment was abusive, and that his statements to the contrary were not credible. Evidence was also presented that respondent-father had sexually abused his daughter. Although respondent-father contends that his daughter's allegations were not credible, that she had a motive to fabricate the allegations, and that she subsequently recanted them, evidence was presented from which the trial court could find otherwise, including that the daughter never actually recanted her allegations, but rather expressed regret over her disclosure because of the negative effect on the reunification efforts.<sup>2</sup> The evidence also showed that respondent-mother failed to appreciate the risk of harm that respondent-father's physical abuse posed to the children, and failed to recognize how it affected them. Further, she persisted in disbelieving her daughter's allegations of sexual abuse, despite the daughter's consistency in identifying respondent-father as the abuser. Accordingly, there was a reasonable likelihood that the children would be subject to abuse in the foreseeable future if they were returned to respondents' home.

In addition to the evidence of respondent-father's abuse, the evidence showed that he contributed to a neglectful home environment that created other serious risks of harm to the

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<sup>2</sup> Further, the trial court did not abuse its discretion by precluding respondent-father's daughter from testifying at the termination hearing to protect her best interests, given her fragile emotional state. See MCR 3.973(D)(1).

children, including exposure to potential abuse by third parties, and that he failed to recognize or respond appropriately to such situations as they arose. Similarly, the evidence showed that respondent-mother was not capable of managing or providing proper care for the children on her own. Although she sometimes recognized potentially harmful situations, she either felt powerless to respond without the assistance of others or lacked the insight on how to respond appropriately, thereby leading to a chaotic and damaging environment for the children. As a result of respondents' parental deficiencies, all four children were severely psychologically and emotionally damaged, resulting in anti-social and self-destructive behavior, low self-esteem, delinquency, substance abuse, and suicide attempts. Further, both respondents had "plateaued" with services, meaning that they had already been provided with numerous services and they were not likely to make any further progress from continued services, so there was no reasonable likelihood that either respondent would be in a position to provide proper care and custody within a reasonable time.

Accordingly, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence with respect to both respondents.

Finally, considering the overwhelming evidence that respondents were not able to provide a safe, stable, and secure environment for their children, and the severe emotional and psychological damage the children had experienced while in respondents' custody, the trial court did not clearly err in finding that termination of their parental rights was in the children's best interests.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Joel P. Hoekstra  
/s/ Elizabeth L. Gleicher