

STATE OF MICHIGAN  
COURT OF APPEALS

---

*In re* E. E. WATSON, Minor.

UNPUBLISHED  
November 29, 2016

No. 332104  
Wayne Circuit Court  
Family Division  
LC No. 02-408269-NA

---

Before: JANSEN, P.J., and MURPHY and RIORDAN, JJ.

PER CURIAM.

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

Respondent has been struggling with drug addiction for approximately 40 years and all of her children tested positive for drugs at birth. Respondent previously relinquished her parental rights to two of her children, who were adopted by her parents, and the trial court terminated her parental rights to a third child. The child at issue in this case, EEW, was removed from respondent's custody at birth in 2008. Respondent successfully completed reunification services, EEW was returned to respondent's custody, and the court terminated its jurisdiction in 2010. Soon thereafter, EEW went to live with her grandparents and siblings under a guardianship and did not return to respondent's custody until 2013. EEW was again removed from respondent's care in 2014 after respondent relapsed, abusing cocaine, marijuana, and alcohol. As before, respondent successfully completed reunification services, the child was returned to respondent's custody, and the court terminated its jurisdiction at the end of 2014. EEW was removed again a year later because respondent had relapsed and disappeared, going on a drug binge and essentially abandoning EEW.

Respondent first argues that the trial court clearly erred in finding that the statutory grounds for termination had been proved by clear and convincing evidence.<sup>1</sup> If a trial court finds

---

<sup>1</sup> A sound argument can be made that respondent waived any appellate claim challenging the grounds for termination, given certain answers by respondent's counsel to questions posed by the trial court, which answers suggested a concession that statutory grounds for termination existed, leaving only the issue of the child's best interests. Regardless, we shall proceed to substantively address some, but not all, of the statutory grounds relied on by the trial court.

that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proved by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). “This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests.” *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). “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 HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, “regard is to be given to 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).

The trial court did not clearly err in finding that § 19b(3)(g) had been proved by clear and convincing evidence. Section 19b(3)(g) allows for termination when “[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.” Respondent had a severe long-term substance abuse problem, resulting in egregious neglect of EEW. The evidence clearly established that respondent failed to provide proper care or custody for EEW. In light of respondent’s history with rehabilitative services following prior removals, she has shown an ability to complete services within a reasonable time. However, mere compliance with services is not enough; the parent must also benefit from the services by changing her harmful parenting behaviors to the extent that the child would no longer be at a risk of harm in her custody. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). Respondent’s history demonstrates that any change she makes for the better is only temporary. Once the court ends its supervision and she is no longer under scrutiny, she relapses. The trial court recognized this problematic history and how it had caused an unending pattern of disruptions, instability, and uncertainty in EEW’s life, leading to stress and anxiety for the child. We detect no clear error in the court’s ruling that there was clear and convincing evidence showing no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering EEW’s age. EEW is entitled to *ongoing and continuous* proper care and custody, which cannot reasonably be expected if respondent retained her parental rights, not just another momentary display of parental caregiving. Considering the background in this case, respondent has been afforded more than “reasonable time” to provide proper care and custody.

The trial court also did not clearly err in finding that § 19b(3)(j) had been proved by clear and convincing evidence. Section 19b(3)(j) allows for termination when “[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.” Respondent’s long-term substance abuse problem presented a risk of harm to her child. Not only did respondent risk EEW’s health by using drugs during her pregnancy, she left the child home alone or with a strange man and disappeared while on a drug binge. Although respondent claimed to have a new-found insight into her addiction that would help her achieve lasting sobriety, she was still in inpatient treatment and less than two months sober. Again, respondent’s history shows that she is not able to

maintain her sobriety when not under court supervision. There was no clear error in finding clear and convincing evidence that EEW would likely be harmed if returned to respondent's care.

Because only one statutory ground for termination need be proved, *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012), and the trial court did not clearly err in finding that § 19b(3)(g) and (j) had been established, any error with respect to § 19b(3)(i) and (l) would be harmless. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Accordingly, we decline to address respondent's arguments regarding § 19b(3)(i) and (l).<sup>2</sup>

Next, respondent asserts that the trial court clearly erred in finding that termination of her parental rights was in the child's best interests. MCL 712A.19b(5). With respect to the trial court's best-interests determination, we place our focus on the child rather than the parent. *In re Moss*, 301 Mich App at 87. The trial court may consider such factors as "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted). Although respondent was once again in treatment, the evaluation at the Clinic for Child Study indicated that EEW was not bonded with respondent. There was also evidence that the level of interaction between respondent and EEW during visitations was poor, that EEW had adjusted to her current placement, that she was thriving in school, and that the "night terrors" suffered by EEW were now waning while out of respondent's care. We agree with the trial court that EEW deserves permanency, stability, and finality, free from the tumult that had been her life, and that termination of respondent's parental rights best serves the child's interests.<sup>3</sup>

Affirmed.

/s/ Kathleen Jansen  
/s/ William B. Murphy  
/s/ Michael J. Riordan

---

<sup>2</sup> To the extent that respondent is arguing that she was not provided any or adequate reunification services, she was not entitled to services given the earlier termination of her parental rights relative to one of EEW's siblings. MCL 712A.19a(2)(c). Further, respondent was provided an abundance of services over the years in prior proceedings absent any lasting benefit.

<sup>3</sup> Respondent asserts a number of alleged errors regarding the trial court's factual findings; however, the record does not support respondent's claims and to the extent that there were any errors, respondent has not shown that they affected the outcome of the proceedings and warrant reversal.