

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* H. GARY, Minor.

UNPUBLISHED  
January 10, 2017

No. 333553  
Ingham Circuit Court  
Family Division  
LC No. 15-000260-NA

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Before: WILDER, P.J., and BORRELLO and GLEICHER, JJ.

PER CURIAM.

The circuit court terminated respondent-mother’s parental rights to her young son, HG, because she could not safely parent the child due to severe, untreated mental illness. The record establishes that respondent refused therapy and eventually stopped taking psychotropic medications, resulting in ever-increasing erratic behavior. Accordingly, we discern no error in the circuit court’s ruling. We affirm.

I. BACKGROUND

The Department of Health and Human Services (DHHS) took HG into care immediately after his birth and placed the infant with his maternal grandmother. Respondent gave birth to HG while involuntarily committed to a psychiatric institution. Upon respondent’s release, she underwent a court-ordered evaluation and was diagnosed as “schizophrenic paranoid type.” According to the foster care caseworker, the examiner’s report indicated that respondent had “an elevated lie score,” “[a] low frustration tolerance,” “[i]rritability and overactive[ness],” “[r]igid, unrealistic expectations,” and posed “a risk of abuse and neglect.” The report further indicated that reunification was extremely unlikely given the severity and duration of respondent’s illness.

The parent-agency agreement required respondent to participate in counseling and to take prescribed psychotropic medications. Respondent attended appointments at Community Mental Health, but only to receive her prescriptions. Respondent refused counseling services. She enrolled in required parenting classes, but attended only four sessions and was eventually discharged for absences.

Respondent was allowed liberal parenting time under the parent-agency agreement. Respondent’s mother initially permitted respondent to see HG every day. However, respondent stopped taking her medication, became increasingly belligerent, and began to suffer delusions. Respondent believed she and her mother were not related, that her mother had forged her birth certificate, and that she was actually Vietnamese, not African-American. As the maternal

grandmother drove away from a visit with HG, respondent hurled a rock at the vehicle. Supervised parenting time was then moved to the DHHS. This system did not improve matters. Respondent accused a DHHS worker of sexually abusing HG and another of racism. Workers observed respondent attempting to communicate with HG as if he were a much older child. In a series of emails and text messages, respondent attributed thoughts and emotions to HG well beyond his years. Respondent also repeatedly attempted to give HG bottles of water and age-inappropriate food, despite instruction that HG could only consume formula.

Eventually, respondent refused all contact with the DHHS. She stopped attending parenting-time sessions, would not communicate with the caseworker, and ended all services. The DHHS then filed a petition to terminate respondent's parental rights. The circuit court found adequate statutory grounds and that termination was in HG's best interests, severing the parent-child relationship. Respondent now appeals.

## II. STATUTORY FACTORS

Respondent challenges the evidentiary support for the factors cited by the court in its termination decision. Pursuant to MCL 712A.19b(3), a circuit court "may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence" that at least one statutory ground has been proven. The petitioner bears the burden of proving that ground. MCR 3.977(A)(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). We review a circuit court's factual finding that a statutory termination ground has been established for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013) (quotation marks and citation omitted). "Clear error signifies a decision that strikes us as more than just maybe or probably wrong." *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009).

The circuit court terminated respondent's rights under MCL 712A.19b(3)(c)(i), (g), and (j), which provide:

The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

\* \* \*

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . . :

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

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(g) The 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.

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(j) There 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.

The DHHS adequately supported termination under all three factors. First, more than 182 days elapsed between the initial disposition and the termination hearing. During that time, respondent did not remedy the condition that led to court jurisdiction over her child—her unstable mental health. Respondent refused to participate in court-ordered counseling and eventually stopped taking prescribed psychotropic medications. Respondent's declining mental state is readily apparent on the record. As a result of this noncompliance, it is unlikely that respondent will be able to remedy this condition in the near future either, supporting termination under factor (c)(i).

Respondent's condition, along with her inability to understand the developmental needs of her infant son, prevented respondent from providing proper care and custody for HG from the time of his birth. Given respondent's failure to participate in mental health treatment and her discharge from parenting classes for nonattendance, it is also unlikely that respondent can remedy this deficit within a reasonable time. Accordingly, termination was supportable under factor (g).

And clear and convincing evidence supported that HG would face likely harm in respondent's sole care and custody, supporting termination under factor (j). Caseworkers and the maternal grandmother observed several concerning events during supervised parenting time. Respondent refused to properly buckle HG in his car seat or to secure him during diaper changes to prevent falls. Respondent continually attempted to feed HG improper foods and bucked against direction in this matter. Respondent even threw a rock at a vehicle carrying her young son. Given respondent's volatile temper and delusions, and lack of understanding of proper infant care, HG could not be safely returned to his mother's care.

### III. BEST INTERESTS

Respondent further contends that termination of her parental rights was not in HG's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012), citing MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *Moss*, 301 Mich App at 90. The lower court should weigh all the evidence available to it in determining the child's best interests. *Trejo*, 462 Mich at 356-357. Relevant factors in this consideration include "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." *Olive/Metts*, 297 Mich App at 41-42 (citations omitted). "The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption." *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014). Placement with relatives weighs against termination, however. *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010).

A preponderance of the evidence supports that termination of respondent's parental rights was in HG's best interests. Given respondent's unresolved mental health issues, she is unable to provide a stable home for her child. Respondent's noncompliance with her parent-agency agreement assured that she would be unable to do so anytime in the near future. Moreover, respondent's bond with HG was impacted by her decision to stop parenting-time sessions midway through these proceedings. Although HG was placed with his maternal grandmother, termination remained an appropriate decision. Respondent exhibited hostility and violence toward her mother. Implementing a guardianship while retaining respondent's rights would be unsafe under the circumstances.

We affirm.

/s/ Kurtis T. Wilder  
/s/ Stephen L. Borrello  
/s/ Elizabeth L. Gleicher