

STATE OF MICHIGAN
COURT OF APPEALS

In re MILLER/MOSS, Minors.

UNPUBLISHED
October 19, 2017

Nos. 337351; 337352
Wayne Circuit Court
Family Division
LC No. 10-493130-NA

Before: BOONSTRA, P.J., and METER and GADOLA, JJ.

PER CURIAM.

In this consolidated appeal,¹ respondent-mother appeals by right in Docket No. 337351 the trial court's order terminating her parental rights to the minor children, ZM, KM, CM, and MM. Respondent-father appeals by right in Docket No. 337352 the same order of the trial court terminating his parental rights to CM.² We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

Respondent-mother gave birth to twins ZM and KM in 2009. A little over a year later, ZM and KM were removed from their parents' care by the police and placed in foster care after their father assaulted respondent-mother. The petition filed by petitioner alleged that respondent-mother had been the victim of sexual assault at gunpoint by the children's father, and also that ZM had incurred injuries from physical abuse when the twins were removed. After the children were placed in foster care, respondent-mother was provided with several services according to her parent-agency agreement (PAA), including parenting classes, individual counseling, and domestic violence counseling. The PAA required respondent-mother to secure stable housing and income.

In 2012, while ZM and KM were still in foster care, respondent-mother gave birth to CM, whose father is respondent-father. Petitioner filed an additional petition to take jurisdiction over

¹ See *In re Miller/Moss Minors*, unpublished order of the Court of Appeals, entered March 15, 2017 (Docket Nos. 337351 & 337352).

² The father of ZM and KM was also a respondent before the trial court, but has not appealed the termination of his parental rights and is not a party to this appeal. The paternal parentage of MM was determined during the course of the proceedings in the trial court, and MM's father was not named as a respondent. The term "respondent-father" in this opinion therefore refers only to CM's father.

CM, noting that respondent-mother was not compliant with her PAA because she lacked income and housing, and that CM had been in respondent-father's care with the stipulation that he not live with respondent-mother; nonetheless, respondent-father had moved in with respondent-mother, who was about to be evicted from her apartment. The trial court authorized the petition but did not remove CM from respondent-father's care. In April 2012, the trial court issued a pretrial order regarding CM authorizing petitioner to remove CM immediately upon finding that there was the potential of harm to CM. The trial court also entered a dispositional order regarding ZM and KM changing the permanency plan from reunification to adoption, noting that respondent-mother had been diagnosed with post-traumatic stress disorder, an adjustment disorder, and depression, and had still not remedied her lack of income or housing; the twins' father had been incarcerated for a lengthy prison sentence.

Also in April 2012, petitioner filed a supplemental petition seeking to terminate respondent-mother's and the twins' father's parental rights to ZM and KM. The petition noted that respondent-mother's psychological assessment revealed that she had an IQ of 80, had critical issues with child care, and suffered from a number of related psychological symptoms. The petition alleged that, as a result of those issues, respondent-mother was unable to keep herself, ZM and KM safe from harm. The petition further noted that, despite ZM and KM having been in foster care for more than two years, respondent-mother still had not managed to obtain legal income and suitable housing. The petition also alleged that respondent-mother had been inconsistent in her participation with mental health services.

Shortly thereafter, respondent-mother and respondent-father got into a physical altercation, resulting in respondent-father leaving the home with CM. After he returned home, respondent-father and respondent-mother had another physical altercation, during which respondent-father pushed respondent-mother onto a bed where CM was laying. Respondent-mother eventually called the police, stating that she had been held hostage by respondent-father. Respondent-father was taken to jail, and CM was taken into custody by the police. Petitioner filed an amended petition with the trial court, recounting the aforementioned issues with respondent-father, noting that respondent-father had a long history of domestic violence issues, and requesting that the trial court make CM a temporary ward of the court and place him in foster care. CM was removed from respondent-father's care and placed in foster care. The trial court later held an adjudication trial and took jurisdiction over CM. The trial court subsequently entered a dispositional order requiring respondent-mother to comply with her PAA and to provide proof of legal income and suitable housing with respect to CM. The trial court ordered respondent-father to be drug tested and to enroll in individual counseling, domestic violence counseling, and parenting classes. Respondent-father was also required to participate in a psychological and psychiatric evaluation, to submit to treatment, if necessary, and to obtain a legal source of income and suitable housing. The trial court later required respondent-father to complete anger management training.

In late 2012, the trial court held a termination hearing regarding respondent-mother's rights to KM and ZM. The trial court held that although there was clear and convincing evidence to terminate her parental rights under MCL 712A.19b(3)(j) (risk of harm if children returned to respondent's home), termination would not be in the best interests of ZM and KM. Therefore, the trial court dismissed the supplemental petition for permanent custody of the twins, but maintained jurisdiction over them under the original petition.

In early 2013, the trial court set the goal for all three children to reunification rather than adoption. However, in September 2013, the trial court authorized a supplemental petition for termination of respondents' parental rights. The petition alleged that respondent mother had mental health issues, struggled with dealing with the children during parenting time, and had taken the children to meet respondent-father despite the fact that respondent-father was allowed only supervised parenting time. Respondent-mother was unable to pay her utility bills and maintain her housing. With respect to respondent-father, the petition alleged that he had violated his PAA by being inconsistent in attending therapy, not completing a psychological evaluation, not completing parenting classes, being regularly late or not showing up to parenting time visits, and failing to provide proof of employment or adequate housing. Petitioner reported that respondent-father was living in a homeless shelter.

After another termination hearing in 2013, the trial court held that there was not clear and convincing evidence of any statutory ground for termination for either respondent-mother or respondent-father. Therefore, the trial court once again dismissed the supplemental petition for permanent custody, but maintained the minor children as temporary wards, still in foster care. In a pair of concurrent dispositional orders, the trial court held that petitioner should help respondent-mother and respondent-father work toward reunification. The trial court ordered that respondent-father and respondent-mother should become compliant with their PAAs and that petitioner should assist respondent-mother with obtaining Social Security benefits and paying her utilities.

Respondent-mother gave birth to MM in April 2014. In June 2014, the trial court found that respondent-mother had become fully compliant with her PAA, and ordered that she could have a "full range" of visits with CM, and that ZM and KM were to be removed from foster care and returned to her home, with in-home services to continue. The trial court found respondent-father to be in partial compliance with his PAA and allowed him to have unsupervised parenting time visits. On September 10, 2014, after ZM and KM had been wards of the court for four and a half years, and CM for over two years, the trial court entered orders terminating its jurisdiction over the children and returning them to the care of respondent-mother, finding that she was fully compliant with her PAA and had benefitted from all of the services.

In May 2015, Child Protective Services (CPS) received a complaint of physical abuse and neglect by respondent-mother. There were allegations that respondent-mother was making the children sleep in the basement as punishment and was pouring water on them while they were sleeping. Petitioner provided in-home services to respondent-mother to avoid removing the children from the home, including parenting education, individual therapy, and maternal infant health services. Respondent-mother's caseworker reported that she had completed the services but did not benefit from them. CPS received another complaint in July 2015, and a third complaint in November 2015, alleging that respondent-mother had kicked ZM in the leg, hit CM with a hanger, covered CM's mouth with duct tape, hit the children in the stomach, and left bruises after spanking ZM. The children were removed from respondent-mother's home. CM was placed with his paternal aunt, and ZM, KM, and MM were placed with their maternal grandmother.

The trial court took jurisdiction over all of the children in 2016 and again ordered that respondent-mother comply with a PAA. Respondent-father did not attend the pretrial hearing. Neither parent attended a dispositional review hearing in February 2016. Respondent-mother and respondent-father missed several review hearings during 2016, allegedly because of their

work schedules. By May 2016, respondent-father had been discharged from all services due to nonattendance and his inability to be reached via telephone. Respondent-mother missed several parenting visits.

Respondent-mother and respondent-father continued to miss review hearings and scheduled parenting time visits, with respondent-father in particular attending fewer than half of his scheduled visitations throughout 2016. At a review hearing in 2016, petitioner asserted that it would be filing a petition for termination of respondents' parental rights to all children. ZM, JM, and MM had been placed in non-relative foster care while CM remained with his paternal aunt. Respondent-father was inconsistent with attending services, was living in a transitional home for adult males in which children were not allowed, and had refused to provide paystubs for his employment (despite claiming that he worked for Domino's Pizza), stating that to do so would violate the Health Insurance Portability and Accountability Act (HIPAA). The trial court acknowledged that respondent-father and respondent-mother were not in compliance with their PAAs and adopted the recommendation that the children's plan be changed from reunification to adoption.

Respondent-father missed another dispositional review hearing in January 2017. He did attend a hearing on February 1, 2017 at which he requested that petitioner re-refer him to individual and family therapy because his services had been terminated for lack of participation. Respondent-father also reported that he had not visited CM in a while, and that he needed instructions from petitioner on how to set up parenting time visits. He claimed that his busy work schedule had prevented him from engaging in the offered services and parenting time sessions. The trial court informed respondent-father that his parenting time sessions had never been suspended and that he simply needed to contact his caseworker to set up visits.

The termination hearing was held on February 28, 2017. Respondent-mother's caseworker, Quinette Bowman, testified that respondent-mother's home was unsuitable for children. Bowman testified that the house did not have furniture, the refrigerator was broken, there were dead fleas all over the floor, the house smelled strongly of cat excrement, the rooms that were supposed to be for KM and ZM did not have beds, and respondent-mother's room contained only two twin mattresses on the floor and an unusable crib. Bowman reported that she tried to reschedule a home assessment but that respondent-mother kept rescheduling it. Further, respondent-mother had not made any claims to Bowman that the condition of the home had improved, and respondent-mother had refused to follow Bowman's advice in finding a functional refrigerator. Respondent-mother had needed three re-referrals to individual and family therapy after those services were terminated for inconsistent attendance. Despite the many referrals, respondent-mother had not completed either type of therapy. Bowman testified that respondent-mother completed parenting classes on August 30, 2016, but that she had not benefitted from the service. Respondent-mother had missed 20 parenting time visits, was late to nine more, and had sometimes arrived without necessary items (such as diapers and wipes for MM) or with inappropriate snacks for the children. Further, when all of the children were present at parenting time sessions, respondent-mother struggled to divide her attention among the children. Respondent-mother would focus all of her attention on one of the children, leaving the others to wander around the room. This would often lead to KM throwing tantrums because of a lack of attention. Bowman reported that KM was in therapy to work on his behavioral issues, including the tantrums. ZM was also in therapy to work on anger issues, including violent tendencies toward KM. Bowman expressed concern that respondent-mother's relationship with the children would continue to deteriorate given her failure to benefit from the offered services. Given the

length of the time the children had been in care, their need for stability, and respondent-mother's long history of inconsistent compliance with her PAA and inability to benefit from the services completed, Bowman recommended that respondent-mother's parental rights to all of the children be terminated.

Respondent-father's caseworker, Marekah Ames, testified that that respondent-father had obtained suitable housing (given that he was no longer living in a transitional home for adults only) and had completed domestic violence counseling after three separate referrals to the program. However, respondent-father had been referred to parenting classes, individual therapy, and family therapy at least seven different times because those services were repeatedly terminated due to his lack of participation, and because he had not completed those services. Ames testified that respondent-father would blame missed appointments on his work schedule, but would never provide a copy of his work schedule. Ames reported that respondent-father would sometimes become more consistent and compliant with his PAA near the time of scheduled hearings, but that he would then regress to noncompliance. Ames reported that respondent-father was inconsistent in attending parenting time sessions despite the fact that only one hour was scheduled per week. Ames testified that CM had just turned five years old and had been in foster care for more than two years between 2012 and 2014, and then for an additional 15 months with his paternal aunt since November 2015. Ames noted that the aunt was ready to adopt CM and that CM deserved the stability that adoption would afford to him.

Both respondents testified, essentially seeking more time to complete services.

After hearing oral argument and taking judicial notice of the court file, the trial court made its findings of fact on the record. The trial court relied heavily on the fact that respondent-mother and respondent-father had been afforded a great deal of time to become compliant with their PAAs, including during the prior proceedings, and that they had always fallen back on excuses for their failure to do so. The trial court specifically noted that respondent-mother had not completed individual or family therapy, had had inconsistent and sometimes inappropriate parenting time visits, and had not benefitted from the parenting classes. Similarly, respondent-father had failed to complete individual or family therapy, as well as parenting classes, had suffered from inconsistent visits, and had refused longer visits when offered. The trial court held that there was clear and convincing evidence to terminate both parents' parental rights under MCL 712A.19b(3)(c)(i), (g), and (j).

Regarding the best interests of the children, the trial court held that, individually, all of the children deserved to have consistency and stability in their lives, and that respondent-mother's and respondent-father's histories reflected that they could not provide that. The trial court specifically acknowledged that this was true with respect to CM even though he had been placed with a relative. Allowing the parents another chance would only lead to additional instability because of respondents' history of making excuses and not complying with their PAAs.

The trial court terminated respondent-mother's and respondent-father's parental rights under MCL 712A.19b(3)(c)(i) (182 or more days have elapsed since issuance of an initial dispositional order, conditions that led to adjudication continue to exist, and no reasonable likelihood conditions will be rectified within a reasonable time), (g) (parent failed to provide proper care or custody and no reasonable expectation parent will provide proper care or custody

within a reasonable time), and (j) (reasonable likelihood child will be harmed if returned home). These appeals followed.

II. DOCKET NO. 337351

A. STATUTORY GROUNDS FOR TERMINATION

Respondent-mother first argues that the trial court clearly erred when it found that there was clear and convincing evidence to terminate her parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). We disagree.

“This Court reviews for clear error the trial court’s factual findings and ultimate determinations on the statutory grounds for termination.” *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A trial court’s findings of fact are clearly erroneous if this Court is “definitely and firmly convinced that [the trial court] made a mistake.” *Id.* at 709-710.

“‘To terminate parental rights, a trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been proved by clear and convincing evidence.’” *In re Brown/Kindle/Muhammad Minors*, 305 Mich App 623, 635; 853 NW2d 459 (2014), quoting *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). The first ground relied upon by the trial court, MCL 712A.19b(3)(c)(i), states that a parent’s rights may be terminated if “182 or more days have elapsed since the issuance of an initial dispositional order” and “[t]he 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.” The first requirement was fulfilled because the first dispositional order in the instant case was entered on January 19, 2016, and the order terminating respondent-mother’s parental rights was entered more than 182 days later, on February 28, 2017. MCL 712A.19b(3)(c)(i).

The next part of the analysis requires consideration of whether “[t]he conditions that led to the adjudication continue[d] to exist” at the time of termination. MCL 712A.19b(3)(c)(i). “This statutory ground exists when the conditions that brought the children into foster care continue to exist despite time to make changes and the opportunity to take advantage of a variety of services[.]” *In re White*, 303 Mich App at 710 (quotations omitted). Participation in and completion of certain portions of a PAA is not enough where a parent “fail[s] to demonstrate sufficient compliance with or benefit from those services specifically targeted to address the primary basis for the adjudication in th[e] matter[.]” *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). The record reveals that the minor children were removed from respondent-mother’s care because of her neglect and physical abuse of the children. Specifically, respondent-mother admitted to kicking ZM in the leg as punishment, leaving the children home alone without proper supervision, and having an unsuitable home. The trial court ordered respondent-mother to complete parenting classes, individual therapy, and supervised visitation to work on her issues. Approximately 15 months after the adjudication, respondent-mother still had not completed individual therapy and had not obtained suitable housing. At the most recent home assessment performed by Bowman, respondent-mother’s house was infested with dead fleas, smelled of cat excrement, had no furniture, had a broken refrigerator, and had no beds. Although respondent-mother had completed parenting classes, there was evidence that respondent-mother had not benefitted from those services. Indeed, the record revealed that respondent-mother had missed 20 parenting time sessions with the minor children, was late to nine more sessions, and struggled with discipline and maintaining a bond with the children

during those visits. Respondent-mother also exhibited an inability to parent all four children at once, admitting that she struggled to deal with all of their separate personalities. There was evidence that respondent-mother would focus on one child and leave the other three children to fend for themselves, which often lead to KM having behavioral outbursts.

Considering the evidence, it is clear that respondent-mother failed to benefit from the portions of the PAA that were intended to address the conditions that had led to the adjudication. The record shows that, even though respondent-mother had completed the parenting class portion of her PAA, she did not benefit from it. Consequently, respondent-mother “failed to demonstrate sufficient compliance with or benefit from th[e] services specifically targeted to address the primary basis for the adjudication in this matter[.]” *In re Frey*, 297 Mich App at 248.

Furthermore, the record supported the conclusion that respondent-mother had shown that “there is no reasonable likelihood that the conditions w[ould] be rectified within a reasonable time considering the child[ren]’s age.” MCL 712A.19b(3)(c)(i). ZM and KM were first removed from respondent-mother’s care in March 2010, shortly after they turned one year old. They remained in foster care for more than four years while she tried to comply with her PAA. CM was born while ZM and KM were in foster care, and was placed with respondent-father instead of respondent-mother. When CM was just a few months old, he was removed from respondent-father’s care. He remained in foster care for more than two years. After the most recent removal, the minor children, including MM, were in foster care for an additional 15 months. During the entirety of that course of time, respondent-mother failed to comply with her PAA or address her parenting issues. Therefore, it was not clear error for the trial court to determine that there was not a reasonable likelihood that respondent-mother would rectify those conditions within a reasonable time. MCL 712A.19b(3)(c)(i).

In sum, the trial court did not clearly err by determining that there was clear and convincing evidence to terminate respondent-mother’s parental rights to the minor children under MCL 712A.19b(3)(c)(i). Because only one statutory ground for termination is required to be proven by clear and convincing evidence, we need not consider the remaining statutory grounds for termination provided by the trial court. *In re Brown/Kindle/Muhammad Minors*, 305 Mich App at 635. Even so, the record reveals that there was clear and convincing evidence to establish the other two statutory grounds for termination as well.

The trial court also found clear and convincing evidence that respondent-mother’s rights should be terminated under MCL 712A.19b(3)(g). That statutory ground requires a finding, by clear and convincing evidence, that “[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.” MCL 712A.19b(3)(g). “A parent’s failure to participate in and benefit from a service plan is evidence that the parent will not be able to provide a child proper care and custody.” *In re White*, 303 Mich App at 710.

Once again, the record reveals a long history of respondent-mother’s inability to comply with her PAA and address her parenting issues. As discussed, respondent-mother failed to benefit from her parenting classes, and her housing was unsuitable for children; her therapist testified that on the day before the termination hearing she could not even go into the house because of the smell of cat excrement. Respondent-mother missed a significant number of parenting time sessions with the children. She repeatedly had to be referred to individual therapy

because of her lack of attendance. In the sessions that she did attend, she revealed a consistent inability to properly parent the children. The record also shows that respondent-mother missed several dispositional review hearings despite the trial court's order that she attend them. Considering those facts, there was clear and convincing evidence that respondent-mother's "failure to participate in and benefit from a service plan [] evidence[d] that [she would] not be able to provide [the] child[ren] proper care and custody." *In re White*, 303 Mich App at 710. Given the long history of this case, the trial court did not clearly err by determining that "there is no reasonable expectation that [respondent-mother would] be able to provide proper care and custody within a reasonable time considering the child[ren]'s age[s]." MCL 712A.19b(3)(g). These same facts, particularly the state of respondent-mother's housing and her inability to properly supervise all of the children at once, also support the trial court's finding that there was a "reasonable likelihood, based on the conduct or capacity of the child[ren]'s parent, that the child[ren] will be harmed if returned to the home of the parent." MCL 712A.19b(3)(j); See also *In re White*, 303 Mich App at 711.

B. BEST-INTEREST DETERMINATION

Respondent-mother also argues that the trial court clearly erred by determining that it was in the best interests of the children to terminate respondent-mother's parental rights. We disagree.

This Court reviews for clear error a trial court's determination regarding the best interests of the children. *In re White*, 303 Mich App at 713. "A trial court's decision is clearly erroneous '[i]f 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.'" *In re Olive/Metts Minors*, 297 Mich App 35, 41; 823 NW2d 144 (2012), quoting *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (citations and quotation marks omitted).

"Once a statutory basis for termination has been shown by clear and convincing evidence, the court must determine whether termination is in the child[ren]'s best interest[]." *In re LaFrance Minors*, 306 Mich App 713, 732-733; 858 NW2d 143 (2014), citing MCL 712A.19b(5). "[T]he focus at the best-interest stage has always been on the child, not the parent.'" *In re Payne/Pumphrey/Fortson Minors*, 311 Mich App 49, 63; 874 NW2d 205 (2015), quoting *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013). "Best interests are determined on the basis of the preponderance of the evidence." *In re LaFrance Minors*, 306 Mich App at 733. In considering whether termination is in the best interests of the children, the trial court is permitted to consider "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, [] the advantages of a foster home over the parent's home . . . the length of time the child was in care, the likelihood that the child could be returned to her parents' home within the foreseeable future, if at all, and compliance with the case service plan." *In re Payne/Pumphrey/Fortson Minors*, 311 Mich App at 63-64 (internal citations and quotations omitted). "In assessing whether termination of parental rights is in a child's best interests, the trial court should weigh all evidence available to it." *Id.* at 63. In addition, placement with a relative weighs against termination under MCL 712A.19a(6)(a). "[T]he fact that the children are in the care of a relative at the time of the termination hearing is an explicit factor to consider in determining whether termination was in the children's best interest." *In re Olive/Metts Minors*, 297 Mich App at 43 (internal quotations omitted).

The record reveals that ZM and KM were in foster care for nearly six years, CM was in foster care or with his paternal aunt for approximately 3½ years, and MM was in foster care for approximately 15 months. There was evidence that, at the time of termination, the children were all thriving in their placements. The record further shows that respondent-mother lacked a bond with CM, but was bonded with ZM, KM, and MM. Most importantly, however, the record proved that respondent-mother was not able to comply with her PAA, and therefore, the possibility that the children would be returned to her care in the foreseeable future was very low. The evidence instead revealed that respondent-mother would more likely languish in partial compliance with her PAA for years while failing to complete the PAA and benefit from all of the services. Given that ZM, KM, and CM had been removed from respondent-mother's care on two different occasions and had spent a significant portion of their lives in foster or relative care, and that MM had spent more than half of her life in foster care, the record clearly showed that the children had a need for permanence and stability. Considering the evidence and respondent-mother's parenting issues (including the failure to comply with her PAA), the trial court properly determined that the children's need for permanence and stability would not be best served by relying on respondent-mother to someday address her issues such that the children could one day be returned to her care. Instead, the children's best interests were served by the termination of her rights so that the children could move forward toward adoption.

With respect to CM, the trial court properly weighed against termination the fact that he had been placed with a relative. MCL 712A.19a(6)(a). However, any benefit that CM may have realized by his long-term placement with his paternal aunt was outweighed by the 3½ years (of his five-year life) that he had spent outside the care of respondent-mother, with very little possibility that she would rectify, in the foreseeable future, the conditions that had led to the child's placement. Therefore, despite CM's placement with his paternal aunt, his need for permanence and stability was still best served by the termination of respondent-mother's parental rights. For all of these reasons, the trial court did not clearly err by determining that it was in the children's best interests to terminate respondent-mother's parental rights. See *In re Payne/Pumphrey/Fortson Minors*, 311 Mich App at 63-64; see also *In re Olive/Metts Minors*, 297 Mich App at 43.

III. DOCKET NO. 337352

A. STATUTORY GROUNDS FOR TERMINATION

Respondent-father argues that the trial court clearly erred by determining that there was clear and convincing evidence to terminate his parental rights to CM under MCL 712A.19b(3)(c)(i), (g), and (j). We disagree.

With regard to MCL 712A.19b(3)(c)(i), the first requirement again was fulfilled because the first dispositional order for respondent-father was entered on March 24, 2016, and the order terminating respondent-father's parental rights was entered more than 182 days later, on February 28, 2017. MCL 712A.19b(3)(c)(i). The next part of the analysis requires consideration of whether "[t]he conditions that led to the adjudication continue[d] to exist" at the time of termination. MCL 712A.19b(3)(c)(i).

The record reveals that CM was originally placed in respondent-father's care after CM's birth. CM was placed in respondent-father's care because ZM and KM had been removed from respondent-mother's care because of abuse and neglect. Therefore, respondent-father was

directed to make sure that CM was not living with respondent-mother. The trial court also ordered respondent-father to begin proceedings to obtain custody of CM. Despite those orders, respondent-father moved into respondent-mother's apartment with CM shortly after CM's birth. CM was consequently removed from respondent-father's care and placed into foster care for more than two years. During that time, respondent-father was required to engage in services to comply with his PAA, but repeatedly refused to do so. After nearly 2½ years of proceedings before the trial court, respondent-father still was not in substantial compliance with his PAA.

Mere months after CM was released into respondent-mother's care, respondent-father became aware of physical abuse being perpetrated on CM by respondent-mother. Instead of removing CM from the home or attempting to obtain custody, respondent-father contacted CPS and the police. When the police and CPS did not remove CM from respondent-mother's custody, respondent-father made no further attempts to protect CM from respondent-mother's abuse. It was not until petitioner petitioned for CM's removal from respondent-mother's home that CM was protected from respondent-mother's abuse. The trial court took jurisdiction over CM with respect to respondent-father because of respondent-father's failure to protect CM from abuse and neglect. Once again, respondent-father was ordered to comply with a PAA. Respondent-father informed his caseworker that he would wait until CM was returned to the care of respondent-mother, whom he knew to be abusive, before attempting to get back into CM's life.

Eventually, respondent-father began complying with parts of his PAA, including domestic violence counseling, obtaining suitable housing, and maintaining employment. But respondent-father failed to comply with many portions of the PAA, including completing parenting classes, enrolling in individual and family therapy, regularly visiting CM, and attending trial court hearings, and therefore failed to participate in services that would have helped him address his failure to protect CM. Instead, respondent-father only abided by the PAA with respect to the portions that benefitted him directly, including maintaining income and housing, as well as completing domestic violence counseling. Indeed, respondent-father continuously prioritized the portions of the PAA that benefitted him over the portions that would have benefitted his relationship with CM. From 2012 until the termination hearing, respondent-father repeatedly stated that he could not attend parenting classes, parenting time visits, and therapy while keeping up with his work schedule. Although respondent-father was ordered to maintain gainful employment, and was not faulted for doing so, he failed to provide the trial court or his caseworker with a work schedule so that parenting time could be adjusted accordingly. There was evidence that respondent-father flatly refused to spend more than one hour per week with CM, even when petitioner offered him additional supervised parenting time. Consequently, respondent-father "failed to demonstrate sufficient compliance with or benefit from th[e] services specifically targeted to address the primary basis for the adjudication in this matter[.]" *In re Frey*, 297 Mich App at 248.

Furthermore, the record supports the conclusion that "there [was] no reasonable likelihood that the conditions w[ould] be rectified within a reasonable time considering the child's age." MCL 712A.19b(3)(c)(i). During the approximately 3½ years that respondent-father was subject to the trial court's jurisdiction with respect to CM, respondent-father never came into full compliance with his PAA. There was no evidence on the record that this would change. Indeed, at the termination hearing, respondent-father once again stated that his work schedule would not allow him to fully comply with the PAA, despite offers by the service providers to work around his schedule. Therefore, it was not clear error for the trial court to

determine that there was not a reasonable likelihood that respondent-father would rectify those conditions within a reasonable time. MCL 712A.19b(3)(c)(i).

In sum, the trial court did not clearly err by determining that there was clear and convincing evidence to terminate respondent-father's parental rights to CM under MCL 712A.19b(3)(c)(i). Because only one statutory ground for termination is required to be proven by clear and convincing evidence, we need not consider the remaining statutory grounds for termination provided by the trial court. *In re Brown/Kindle/Muhammad Minors*, 305 Mich App at 635. Even so, the record reveals that there was clear and convincing evidence to establish the other two statutory grounds for termination as well.

The trial court found clear and convincing evidence that respondent-father's parental rights should be terminated under MCL 712A.19b(3)(g). The record shows that, throughout CM's five-year life, he was only in respondent-father's care for approximately four months – the first four months of CM's life. During that time, respondent-father violated two orders of the trial court by moving in with respondent-mother and by failing to take action to obtain custody over CM. The trial court provided respondent-father with approximately 3½ years of services to try to ensure that respondent-father would protect CM from such situations involving potential abuse and to provide proper care and custody of CM. Respondent-father repeatedly and consistently failed to take advantage of those services. Considering those facts, there was clear and convincing evidence that respondent-father's "failure to participate in and benefit from a service plan [] evidence[d] that [he would] not be able to provide [the] child proper care and custody." *In re White*, 303 Mich App at 710. Given the long history of this case, the trial court did not clearly err by determining that "there is no reasonable expectation that [respondent-father would] be able to provide proper care and custody within a reasonable time considering the child's age." MCL 712A.19b(3)(g). Consequently, the trial court properly determined that termination was proper under subsection (g). These same facts support the trial court's finding that respondent-father's failure to engage meaningfully in services provided clear and convincing evidence that "the child w[ould] be harmed if [he was] returned to the home of [respondent-father]." MCL 712A.19b(3)(j). See also *In re White*, 303 Mich App at 711. The record supports the conclusion that, if CM were returned to respondent-father's care, respondent-father would continue to act in the same manner as he had since 2012. Consequently, the trial court properly determined that termination was proper under MCL 712A.19b(3)(j).

B. BEST-INTEREST DETERMINATION

Respondent-father also argues that the trial court clearly erred by determining that it was in CM's best interests to terminate respondent-father's parental rights. Again, we disagree.

The record shows that at the time of termination, there was still a bond between CM and respondent-father. However, respondent-father was not able to demonstrate appropriate parenting skills at the parenting time sessions that he did attend. At the time of termination, CM had been a ward of the court for approximately 3½ years of his life. For the latter 15 months of that time, CM had been living with his paternal aunt. Evidence established that CM was thriving in that placement. Respondent-father was not compliant with his PAA and provided no proof that he would be able to remedy his parenting issues and be prepared to take CM into his care. Given CM's long history of being a ward of the court, the trial court did not err by determining that CM needed stability and permanence. Further, due to respondent-father's inability to comply with his PAA and exhibit the ability to properly parent, the trial court was correct in

determining that CM's need for permanence and stability would be best served by remaining with his paternal aunt and by terminating respondent-father's parental rights. The trial court did not clearly err by finding that respondent-father's bond with CM was not sufficient to overcome those facts. Instead, CM's best interests were served by termination of respondent-father's rights so that CM could move forward toward adoption. MCL 712A.19b(5).

Respondent-father further argues that the trial court erred by failing to explicitly and sufficiently discuss CM's placement with a relative. To the contrary, the record reveals that the trial court properly weighed that factor against termination. MCL 712A.19a(6)(a). However, any benefit that CM may have realized by his placement with his paternal aunt was outweighed by the 3½ years (of his five-year life) that he had spent outside the care of respondent-father, with very little possibility that respondent-father would rectify, in the foreseeable future, the conditions that had led to the child's placement. Therefore, despite CM's placement with his paternal aunt, his need for permanence and stability was still best served by the termination of respondent-father's parental rights. The trial court properly determined that it would be against CM's best interests for him to remain a temporary ward of the court while continuing indefinitely to wait for respondent-father to comply with his PAA and to address his parenting issues. For all of these reasons, the trial court did not clearly err by determining that it was in CM's best interest to terminate respondent-father's parental rights. See *In re Payne/Pumphrey/Fortson Minors*, 311 Mich App at 63-64; see also *In re Olive/Metts Minors*, 297 Mich App at 43.

Affirmed.

/s/ Mark T. Boonstra

/s/ Patrick M. Meter

/s/ Michael F. Gadola