

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* TARKINGTON, Minors.

UNPUBLISHED  
October 25, 2018

No. 342567  
Muskegon Circuit Court  
Family Division  
LC No. 15-044328-NA

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Before: BOONSTRA , P.J., and O’CONNELL and TUKEL, JJ.

PER CURIAM.

Respondent-father appeals as of right the order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

I. BASIC FACTS

In this termination of parental rights case, the trial court terminated the respondent’s parental rights to the minor children, MT, AT, and TT. One of the children, TT, was born with alcohol and marijuana in his system. In addition, respondent failed to prevent the children’s mother<sup>1</sup> from being in their presence, despite direct court orders, even though while drunk and in the children’s presence she threatened to harm herself with a knife. In addition to exposing the children to the dangers presented by their mother and her serious substance abuse problem, respondent also exposed the children to the dangers presented by domestic violence between mother and respondent. The trial court also specifically noted that the day before the termination trial, respondent was incarcerated for an act of domestic violence against mother, and he was convicted of that offense.

II. ANALYSIS

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). And once a statutory ground for termination of parental rights has been established, the trial court must order the

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<sup>1</sup> During the trial, the mother voluntarily relinquished her parental rights to the minor children; she does not appeal the termination of her rights.

termination of parental rights if the trial court finds by a preponderance of the evidence that termination of parental rights is in the children's best interests. MCL 712A.19b(5); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013).

#### A. STATUTORY GROUNDS FOR TERMINATION

Respondent first argues that the trial court clearly erred in finding that termination of his parental rights to the minor children was proper under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We disagree. This Court reviews for clear error a trial court's factual determination that statutory grounds exist for termination. *In re VanDalen*, 293 Mich App at 139. "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 BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

The trial court first found that termination of respondent's parental rights to the minor children was proper under MCL 712A.19b(3)(c)(i) and (ii), which state in relevant part as follows:

(3) 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 either of the following:

(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.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

We cannot conclude that the trial court clearly erred in finding that statutory grounds existed to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (ii). The trial court exercised jurisdiction over the children because one of the children was born with alcohol and marijuana in his system. The trial court removed the children from respondent's care shortly thereafter because mother was drunk and threatened to harm herself with a knife while the children were home. The trial court allowed respondent unsupervised parenting time but cautioned respondent not to allow mother in the home while the children were present. Yet, the children reported to the foster parents and their counselor that mother was present during

those visits, and the trial court specifically found that respondent violated direct court orders and allowed mother to have contact with the children. In addition to exposing the children to the dangers presented by their mother and her serious substance abuse problem, respondent also exposed the children to the dangers presented by domestic violence between mother and respondent. The trial court specifically noted that the day before the termination trial, respondent was incarcerated for an act of domestic violence against mother and was convicted of that offense. The trial court also noted that respondent's continuous failure to rectify the dangers that his children were exposed to, despite ample notice and opportunity provided to him, gives no reasonable expectation that these issues would be rectified within a reasonable time considering the children's ages. Based on these facts, we conclude that the trial court did not clearly err when it found that statutory grounds existed to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (ii).<sup>2</sup>

## B. BEST INTERESTS OF THE MINOR CHILDREN

Respondent next argues that the trial court clearly erred in finding that termination of his parental rights was in the children's best interests. We disagree. This Court reviews for clear error the trial court's determination of best interests. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

In making a best-interests determination, the interests of the children, not the parent, are the focus of the best-interest stage of child protective proceedings. *In re Moss*, 301 Mich App at 87-88. In doing so,

[t]he trial court should weigh all the evidence available to determine the children's best interests. To determine whether termination of parental rights is in a child's best interests, the court should consider a wide variety of factors that may 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. 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, 713-714; 846 NW2d 61 (2014) (quotation marks and citations omitted).]

Although the trial court did not specifically articulate all of its findings regarding the factors set forth in *In re White*, it is clear that the trial court did consider those factors. The trial court addressed respondent's history of domestic violence, respondent's lack of compliance with his case service plan, and respondent's failure to attend the children's medical appointments. The trial court also addressed the children's need for permanency, stability, and finality; the

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<sup>2</sup> Because we conclude that the trial court did not clearly err in finding that at least one statutory ground supported termination of respondent's parental rights, we need not address any additional grounds. See *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).

advantages of the foster home over respondent's home; and the foster parents' willingness to adopt the children. Based on a review of the entire record in this case, we cannot conclude that the trial court clearly erred in finding, by a preponderance of the evidence, that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Mark T. Boonstra  
/s/ Peter D. O'Connell  
/s/ Jonathan Tukel