

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* WEATHERSPOON/UNDERWOOD,  
Minors.

UNPUBLISHED  
November 26, 2019  
  
No. 348361  
Wayne Circuit Court  
Family Division  
LC No. 16-523835-NA

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Before: JANSEN, P.J., and BOONSTRA and LETICA, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to her minor children, BWG, BWB, and GU, under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care and custody), and MCL 712A.19b(3)(j) (reasonable likelihood that child will be harmed if returned to parent). We affirm.

I. STATUTORY GROUNDS

Respondent first argues that the trial court erred in finding the existence of statutory grounds for termination. We disagree.

This Court reviews a trial court’s findings and ultimate determinations regarding whether statutory grounds exist for termination under a clearly erroneous standard. MCR 3.977(K); *In re White*, 303 Mich App 701, 709-710; 846 NW2d 61 (2014). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with the definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). A trial court’s decision must be more than maybe or probably wrong in order for this Court to determine that it is clearly erroneous. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). This Court gives deference to the special opportunity of the trial court to judge the credibility of the witnesses who appear and testify before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

“To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established.” *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). “Only one statutory ground need be established

by clear and convincing evidence to terminate a respondent's parental rights, even if the court erroneously found sufficient evidence under other statutory grounds." *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

Here, the trial court found statutory grounds for termination under MCL 712A.19b(3)(c)(i), (g), and (j). Termination is appropriate under MCL 712A.19b(3)(c)(i) where clear and convincing evidence establishes:

(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 lead 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 minor children were brought under the trial court's jurisdiction in November 2016 due to allegations that respondent had medically neglected GU, who suffers from several severe medical issues, including a ventricular septal defect, bilateral club feet, congestive heart failure, an umbilical hernia, a doubled-chambered right ventricle, microtia of the right ear, and an internal tibial torsion of both lower extremities. GU also displayed poor weight gain and had failed a hearing screen. Respondent had consented to GU having open-heart surgery and surgery to repair the clubfeet, however, respondent failed to ensure GU had follow up treatment, physical therapy, and leg braces. CPS had been involved with respondent on nine prior occasions, all dealing with medical neglect investigations. Respondent was compliant with GU's medical treatment when CPS was involved. After CPS opened the latest investigation, respondent indicated she did not wish to engage with CPS, and asked CPS workers not to contact her. Additionally, respondent suffered with untreated mental health and addiction issues, and had difficulty maintaining housing and employment.

The trial court entered a dispositional order requiring respondent to receive a psychological and psychiatric exam, engage in mental health counseling, submit to random drug screenings, engage in substance abuse services, and attend specialized parenting classes directed at helping respondent care for GU's unique medical needs. Respondent was also ordered to obtain a legal source of income and secure housing. Respondent was allowed supervised visits with all the minor children. Finally, respondent was ordered to address any outstanding criminal warrants, participate in GU's medical care, keep in touch with her caseworkers, and attend all court hearings.

This case remained open for nearly two years, during which time respondent did not engage in the services ordered. During the pendency of the case, respondent had lived at four or more different homes, and at times was homeless. Respondent's only source of income was social security. Moreover, respondent was repeatedly terminated from substance abuse and

mental health services because of absences and lack of cooperation. Respondent did not complete parenting classes, but did attend visitation. However, during visits with the minor children, respondent would often display inappropriate behavior, and would threaten supervisors. Respondent also missed several visits, which she blamed on transportation issues despite having been provided with bus passes and gas cards. Respondent's substance abuse also remained a concern. She rarely submitted to drug screenings, and when she did, she always tested positive for THC. During this case, respondent gave birth to another child, who was born addicted to cocaine. Although respondent did admit herself to Genesis House to address her marijuana abuse, she refused to admit using cocaine, and even suggested that someone had laced her marijuana with cocaine, which resulted in her youngest child being born addicted.

Based on the foregoing, we conclude that the trial court did not err in finding that clear and convincing evidence established that conditions leading to the adjudication continued to exist, and therefore statutory grounds existed to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i).

Because the trial court properly found that statutory grounds existed to terminate respondent's parental rights under MCL 712A.19b(3)(i), we need not address respondent's additional challenges to termination of her parental rights under MCL 712A.19b(3)(g) and (j), *In re Ellis*, 294 Mich App at 33.

## II. BEST INTERESTS

Respondent also argues that the trial court erred in finding that termination of her parental rights was in the children's best interests. We disagree.

"Once a statutory ground for termination has been proven, the trial court must find that the termination is in the child's best interests before it can terminate parental rights. *In re Olive/Metts Minors*, 297 Mich App 35, 40-41; 823 NW2d 144 (2012). "[W]hether termination of parental rights is in the best interest of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App at 90. We review the trial court's best interests determination for clear error. *In re Schadler*, 315 Mich App 406, 408; 890 NW2d 676 (2016).

In determining whether the termination of respondent's parental rights was in the children's best interests, the trial judge found that two years had elapsed since the beginning of this case, and respondent's improvements were minimal. Although respondent had made some efforts towards the end of the case, the trial court found that there was no evidence to suggest that those efforts would ultimately be successful. Respondent had never had a negative drug screen and continued to struggle with drug abuse. GU had special needs, which respondent was not equipped to address. Moreover, the trial court found that the age of the children, the bond between respondent and her children, and the children's adoptability all weighed in favor of termination. Thus, the trial court found that termination was in the best interests of the minor children.

We conclude that these findings are supported by a preponderance of the evidence. Respondent loved her children, there was some bond, but sometimes they were "very expressive" that they did not want to see her. In total, respondent missed 86 out of 185 visits

with the minor children. Respondent failed to attend parenting classes, or address her substance abuse or mental health issues during the nearly two years that the minor children were removed from her care. Respondent only submitted to three drug screens throughout the entire case, which were all positive for THC. Respondent did not participate in substance abuse therapy until October 1, 2018, when she was self-admitted into Genesis House. However, respondent's two drug screens through Genesis House, on October 2, 2018, and October 4, 2018, were also positive for THC. Respondent never had stable housing during the pendency of this case, and her only income was social security for \$799 per month. The minor children, one of whom has special and unique medical needs, are entitled to stability, consistency, and finality, which, based on the foregoing, respondent is incapable of providing. Thus, the trial court did not clearly err in finding that termination of respondent's parental rights was in the best interest of the minor children.

Affirmed.

/s/ Kathleen Jansen  
/s/ Mark T. Boonstra  
/s/ Anica Letica