

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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*In re* DG and SS, Minors.

UNPUBLISHED  
December 19, 2019

No. 348367  
Wayne Circuit Court  
Family Division  
LC No. 13-513792-NA

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

PER CURIAM.

Respondent mother appeals as of right the order terminating her parental rights to her minor children, DG and SS, under MCL 712A.19b(3)(c)(i) (conditions that led to the adjudication continue to exist, and parent unable to rectify conditions) and (j) (reasonable likelihood child will be harmed if returned to parent). Because reasonable efforts were made to accommodate respondent's disability and the trial court did not err in terminating her parental rights, we affirm.

**I. BACKGROUND**

The Department of Health and Human Services (DHHS), filed a petition alleging that DG was compulsively banging his head, was not receiving proper nutrition, and that respondent was not following up on DG's medical care. Respondent had been diagnosed with PTSD, major depression, borderline personality disorder, and an unspecified learning disorder. She was not compliant in therapy or in taking her medication. DG was allowed to remain with respondent pending her compliance with a parent-agency plan which included parenting classes and mental health treatment.

Eventually, the DHHS filed a petition as to both children, alleging failure to protect, medical neglect, and failure to supervise after SS was found unaccompanied on a public street, dirty and with matted hair. Both DG and SS suffered from failure to thrive, constant head banging, asthma, neurological concerns. The children were placed in foster care, and the court found the existence of grounds to take jurisdiction over both children.

Over the next year and a half, the trial court conducted periodic dispositional review hearings. During that time, respondent attended individual therapy and saw a psychiatrist. She

also completed parenting and anger management classes. The family's foster care worker learned that respondent was not taking her prescribed medication, and the court ordered drug screens at the DHHS's discretion, which consistently came back negative, despite respondent's insistence that she was taking her medication. The foster care worker expressed concern that respondent was unable to control her anger during interactions with the children and DHHS workers. In addition, respondent failed to attend the children's frequent medical appointments, claiming that she lacked transportation despite the DHHS providing her with multiple forms of assistance.

The DHHS filed a supplemental petition to terminate respondent's parental rights and alleged that respondent continued to interact inappropriately with DHHS workers and the children, that she continued to screen negative for her medications, and that she had missed a majority of the children's medical appointments. The court ordered the DHHS to adapt its services in light of respondent's cognitive deficits, and the DHHS enrolled respondent in parenting classes at a specialized facility and provided a "supportive visitation coach" to provide hands-on education during visits with the children. She also had lost her home for failure to pay overdue taxes.

Eventually, the court authorized an updated supplemental petition to terminate respondent's parental rights. Respondent did not attend the evidentiary hearing on the updated supplemental petition. The foster care worker testified that respondent was not benefitting from the adaptive services and her behavior had remained substantially the same since the court exercised jurisdiction over the children. The court found statutory grounds to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i) and (j). The court also found that termination was in the best interests of the children, and that the DHHS had made reasonable efforts at reunification in light of respondent's cognitive deficit. Respondent now appeals.

## II. STATUTORY GROUNDS

Respondent argues that court clearly erred in finding statutory grounds because whenever she made progress on one issue, the DHHS would focus on another issue in court, even though she was compliant with her parent-agency plan throughout the case. We disagree.

To terminate parental rights, the trial court must find that at least one statutory ground for termination under MCL 712A.19b(3) has been proven by clear and convincing evidence. *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). We review for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination, MCR 3.977(K); *In re LaFrance Minors*, 306 Mich App 713, 723; 858 NW2d 143 (2014), and we defer to the trial court's factual findings if the findings are not clearly erroneous. *In re Rood*, 483 Mich 73, 90; 763 NW2d 587 (2009). A trial court's findings of fact are clearly erroneous if we are definitely and firmly convinced that the trial court has made a mistake, *id.*, deferring to the special ability of the trial court to determine the credibility of witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). To be clearly erroneous, a trial court's determination must be more than possibly or probably incorrect. *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

Here, the trial court found that termination as warranted under MCL 712A.19b(3)(c)(i) which provides:

(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:

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(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.

In this case, adjudication occurred because respondent failed to supervise the children, failed to follow up on their medical care, and failed to comply with her mental health treatment plan. The foster care worker testified that respondent’s supervision of the children during visitation was unsatisfactory. Respondent was overly reliant on the Infant Mental Health (IMH) specialist to coordinate and structure visits. She showed up to one visit drunk and had to be driven home by workers. During another visit, SS left the room without respondent noticing. The IMH specialist testified that respondent was quick to anger and tended to focus on her own emotions rather than the children. Respondent’s supervision of the children did not improve after the petition to terminate her parental rights was filed—she still became “very agitated” with the children. The supportive visitation coach reported that respondent was “stagnant . . . in benefitting from the services.” Despite multiple rounds of parenting and anger management classes, respondent still “scream[ed] and yell[ed] at the children, pull[ed] [SS] by his arm, [and failed to follow the] recommendations of her IMH [w]orker.”

Respondent also failed to improve in taking responsibility for the children’s medical care. The foster care worker testified that respondent failed to attend several important medical appointments, claiming that she could not get transportation even though the foster care worker had provided respondent with monthly bus cards, “signed her up for . . . a disability service that [would] pick her up from the home and take her to the next bus stop,” and had driven respondent to appointments herself. In contrast, respondent made no independent efforts to attend appointments. *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012) (the DHHS has a responsibility to expend reasonable efforts, but a respondent has a commensurate responsibility to participate in the services that are offered).

Additionally, although respondent attended therapy and psychiatry appointments, she repeatedly failed to take her medication and refused to work with the foster care worker. During proceedings, respondent tested positive five times for only one medication, and eight screens were negative for any medication. At the time of the final evidentiary hearing, respondent was still screening negative for her medications. Respondent did not provide any evidence that she was taking her medication. Instead, she argued that the drug screens were faulty and that the foster care worker should have referred her to another testing service.

During the 875 days that passed between the trial court's initial disposition and its termination of respondent's parental rights, including 246 days of services adapted for her cognitive deficits, it is clear that respondent failed to benefit from services offered to her. She failed to appropriately interact with the children, to attend the children's medical appointments, and to screen positive for her psychiatric medication. Therefore, the trial court's determination, under MCL 712A.19b(3)(c)(i), that the conditions that led to adjudication had persisted for more than 182 days after the first dispositional order and were not reasonably likely to be rectified in a reasonable time was not clearly erroneous.

Because it is unnecessary to establish more than one statutory ground by clear and convincing evidence to terminate a parent's parental rights, *In re Ellis*, 294 Mich App at 32, we need not reach the issue whether termination of respondent's parental rights in this case was warranted under subsection MCL 712A.19b(3)(j) (reasonable likelihood child will be harmed if returned to parent). However, we note that termination under that subsection also was correct because throughout the case, and at the time of termination, respondent displayed an inability to control her anger. She screamed and yelled at the children, pulled SS by his arm, and addressed the trial court in a combative fashion on multiple occasions. Additionally, respondent failed to attend to the children's significant medical needs. SS saw three specialist physicians monthly and was attending physical, occupational, and speech therapy, and underwent three ear surgeries and two throat surgeries. He took medication three times per day, and had small cysts on his brain. DG took numerous medications, and his foster mother had to check a couple times each night whether he had taken off his CPAP mask for sleep apnea. At the time of adjudication, petitioner had obtained 158 pages of medical records directly from the children's physicians that showed several missed appointments. At the time of termination, respondent still was not attending the children's frequent medical appointments, despite petitioner providing multiple forms of transportation assistance. Given this history of respondent's failure to attend to the children's special needs, the trial court's determination, under MCL 712A.19b(3)(j), that there was a reasonable likelihood the children would be harmed by abuse or neglect if returned to respondent's home also was not clearly erroneous.

### III. REASONABLE EFFORTS

Respondent argues that the DHHS did not make reasonable efforts at reunification because it failed to adapt services to her cognitive and psychiatric disabilities and to give her enough time to benefit. We disagree.

Michigan's Probate Code requires the DHHS "to make reasonable efforts to reunify a family before seeking termination of parental rights." *In re Hicks/Brown*, 500 Mich 79, 86; 893 NW2d 637 (2017), citing MCL 712A.18f(3)(b) and (c); MCL 712A.19a(2). The "[DHHS] must create a service plan outlining the steps that both it and the parent will take to rectify the issues that led to court involvement and to achieve reunification." *Id.* at 86, citing MCL 712A.18f(3)(d). The "[DHHS] also has obligations under the [Americans with Disabilities Act ("ADA")] . . . [to ensure that] 'no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.'" *Id.*, quoting 42 USC 12132. "Absent reasonable modifications to the services or programs offered to a disabled parent, [the DHHS] has . . . failed in its duty to make reasonable efforts at

reunification under MCL 712A.19a(2).” *Id.* “[T]ermination [of parental rights] is improper without a finding of reasonable efforts.” *Id.* at 90.

Here, the trial court was attentive to respondent’s mental health issues. The trial court opened a preliminary hearing by stating, “You were all in the middle of a bench trial, and we have to start over due to some special services.” The court asked respondent’s attorney to state respondent’s disabilities for the record. The attorney replied that his “client has some cognitive deficits.” The trial court stated that it, “want[ed] to be sure that whatever services [respondent was] supposed to be benefitting from . . . [were] specifically geared towards persons with cognitive delays.” Pursuant to court order, the DHHS enrolled respondent in parenting classes at a specialized facility and appointed a “supportive visitation coach” to provide respondent with hands-on education during visits. In response to respondent’s transportation difficulties, the foster care worker signed respondent up for a disability service that would pick her up from the home and take her to the next bus stop, and drove respondent to appointments herself. Throughout the case, respondent also was provided with individual therapy, a psychiatrist, and an IMH specialist who came to her home.

As stated previously, “[w]hile [the DHHS] has a responsibility to expend reasonable efforts . . . there exists a commensurate responsibility on the part of respondents to participate in the services that are offered.” *In re Frey*, 297 Mich App at 248. Respondent failed to consistently take her medication or follow the recommendations of her IMH specialist. She also did not substantially benefit from therapy. Even though the foster care worker’s testimony was vague as to the precise adaptive mechanisms employed by the “parenting class facility” and the “supportive visitation coach,” respondent’s persistent refusal to cooperate with DHHS workers on crucial aspects of her parent-agency plan was the primary barrier to reunification—not petitioner’s formulation and execution of that plan. Therefore, the trial court did not clearly err in finding that petitioner had made reasonable efforts at reunification under MCL 712A.19a(2).

#### IV. BEST INTERESTS

Respondent simply states that termination was not in the children’s best interests. This claim fails because respondent “presents it as a mere conclusory statement without citation to the record, legal authority, or any meaningful argument.” *Ewald v Ewald*, 292 Mich App 706, 726; 810 NW2d 396 (2011). Thus, we decline to consider the issue other than to find the trial court was not clearly erroneous in its best interests determination.

#### V. CONCLUSION

The trial court did not err when it held that statutory grounds existed for termination of respondent’s parental rights, or when it determined that reasonable efforts at reunification had been made. Additionally, respondent’s claim that termination was not in the children’s best interests fails. Affirmed.

/s/ Michael J. Riordan  
/s/ Kathleen Jansen  
/s/ Cynthia Diane Stephens