

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

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*In re* STOERCK, Minors.

UNPUBLISHED  
December 10, 2020

No. 353526  
Delta Circuit Court  
Family Division  
LC No. 18-000355-NA  
LC No. 18-000356-NA  
LC No. 18-000357-NA

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Before: LETICA, P.J., and RIORDAN and CAMERON, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court’s order terminating her parental rights to the minor children, KS1, KS2, and JS, under MCL 712A.19b(3)(c)(i) (no reasonable likelihood that the conditions will be rectified); (c)(ii) (failure to rectify other conditions); and (j) (reasonable likelihood of harm if returned to the parent).<sup>1</sup> We affirm.

I. BACKGROUND

In February 2018, the Department of Health and Human Services (DHHS) filed a petition for the removal of KS1, KS2, and JS from respondent’s home because they were not being properly cared for because of respondent’s drug abuse. Also, DHHS alleged that the home was an unfit environment because it lacked adequate sleeping arrangements for the children and heat, and the home was cluttered with drug paraphernalia and prescription medication within the reach of the children.

The trial court ordered the children removed. In February 2018, the trial court, based on respondent’s admissions, exercised jurisdiction over the children because the home was unfit by reason of neglect, cruelty, drunkenness, and criminality or depravity on respondent’s part. The trial court ordered respondent to comply with and benefit from the case service plan, to obtain and

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<sup>1</sup> Respondent-father, whose parental rights were also terminated during this proceeding, is not a party to this appeal.

maintain suitable housing and employment, to refrain from using or possessing illegal drugs or alcohol, to abide by all alcohol and substance abuse recommendations, and to successfully complete all alcohol and substance abuse treatment programs. The trial court also provided for supervised parenting time.

In February 2020, DHHS filed a supplemental petition requesting that the trial court terminate respondent's parental rights. DHHS asserted that respondent maintained inappropriate relationships with criminals and drug users, in violation of court orders, and that she continued to place her own needs over the children's needs. DHHS also asserted that respondent failed to obtain stable and adequate housing. After a hearing held in March 2020, the trial court concluded that respondent had failed to obtain adequate housing, had inappropriate relationships, and failed to comply with and benefit from her case service plan, and thus, terminated her parental rights under MCL 712A.19b(3)(c)(i), (c)(ii), and (j).

This appeal followed.

## II. STATUTORY GROUNDS

Respondent argues that the trial court erred by finding statutory grounds to terminate her parental rights. We disagree.

"This Court reviews for clear error a trial court's factual findings following a termination hearing." *In re Gonzales/Martinez*, 310 Mich App 426, 430; 871 NW2d 868 (2015). "A finding is clearly erroneous if the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *Id.* at 430-431 (quotation marks omitted). However, this Court reviews de novo whether the trial court properly selected, interpreted, and applied a statute." *Id.* at 431 (quotation marks, ellipsis, and alterations omitted). We must give "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). If we conclude that the trial court did not clearly err by finding one statutory ground for termination, we do not need to address any additional grounds. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).

MCL 712A.19b(3)(c)(i) provides that the trial court may terminate a parent's rights when:

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 . . .

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.

Termination of parental rights is proper under MCL 712A.19b(3)(c)(i) when "the totality of the evidence amply supports that [the respondent] had not accomplished any meaningful change in the conditions" that led to the adjudication, and would not be able to rectify those conditions within a reasonable time considering the children's ages. *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009). The determination of what is a reasonable time properly includes both how long it will take for the parent to improve his or her parenting skills and how long the child can

wait for the improvement. *In re Dahms*, 187 Mich App 644, 647-648; 468 NW2d 315 (1991).

The initial dispositional order for the children was entered in March 2018, and the termination occurred in March 2020. Therefore, 182 or more days had elapsed since the issuance of an initial dispositional order as required under MCL 712A.19b(3)(c).

The conditions that led to adjudication included respondent's unaddressed long-term substance abuse issues, her inability to care for the children, and an unfit home environment with inadequate sleeping arrangements for the children. Specifically, respondent admitted that her home was not a proper environment for the children and the heat had been shut off since September 2017 because of unpaid heating bills. Although respondent made progress regarding her substance abuse issues, the trial court did not clearly err when it determined that the remaining conditions that led to adjudication continued to exist.

At the time of the adjudication, the trial court ordered respondent to comply with and benefit from the case service plan; to secure appropriate employment and housing; to refrain from using marijuana, controlled substances, and alcohol or having alcohol, illegal drugs, or drug paraphernalia in her home; to abide by all alcohol and substance abuse recommendations; and to successfully complete all alcohol and substance abuse treatment programs. Also, in October 2019, the court ordered respondent to immediately enroll in budget management services or classes and follow all of DHHS's directions regarding those services and classes.

The record indicates that respondent began to make progress with her case service plan in April 2019. She had obtained employment. The foster care worker testified that respondent had made progress with rectifying her issue with substance abuse and had tested negative during drug screens since 2019; however, respondent had tested positive for illegal substances in 2018. Additionally, in December 2018, the police had found respondent drunk and disorderly and, as a result, respondent was participating in a drug court program. The record supports that respondent was making progress staying sober in the drug court program at the time of the termination hearing and had begun to rectify her substance abuse problems through that program. However, respondent was at stage three of the drug court's program and if she got to the next, unsupervised phase, it would still be three to six months before she completed the program.

The record supports the trial court's finding that respondent had not made sufficient progress with obtaining adequate housing and that she was unlikely to do so within any reasonable amount of time. The record indicates that respondent had struggled to obtain and maintain adequate and stable housing throughout the pendency of the case. Earlier, respondent had been in and out of jail and treatment. She also had periods of homelessness. Respondent had been staying with a male friend for six to eight months, but, those assisting her in the drug court program had encouraged her to obtain independent housing, setting a specific date for her to do so. In October 2019, respondent had obtained an appropriate two-bedroom apartment; however, the foster care worker testified that respondent did not have enough beds for the children and, by January 2020, respondent was already behind on paying her rent. Although respondent's father testified that respondent had three beds for the children at the apartment, we defer to the trial court's "special opportunity to observe the witnesses." *In re BZ*, 264 Mich App at 296-297. Therefore, we conclude that the trial court did not clearly err when it determined that the problem of inadequate housing continued to persist. See *In re Powers Minors*, 244 Mich App 111, 119; 624 NW2d 472

(2000) (holding that the trial court did not clearly err when it found grounds to terminate under MCL 712A.19b(3)(c)(i), in part, because, although the respondent had found housing, she had failed to obtain suitable furnishings, including beds).

The record also supports the trial court's finding that respondent failed to comply with or sufficiently benefit from budgeting services. At the time of the adjudication, the court found that the home environment was unfit as it lacked heat because respondent failed to pay the heating bill. At the time of the termination hearing, respondent was approximately one or two months behind on her rent and had not addressed her budgeting issues to demonstrate that she could provide for her needs as well as her children's daily needs. The foster care worker and the drug court case manager testified that they had discussed budgeting with respondent and had created budgets for her during the case. The foster care worker testified that, had respondent followed the budgeting plan, she should have been caught up with her rent payments. Respondent had also indicated that she had received budgeting help from others. Notably, respondent was required to pay fines and fees associated with the drug court and the record indicates that she could have been sentenced to serve an eight-month jail term if she failed to do so. Further, at the time of the termination hearing, respondent's father testified that respondent still had issues with her finances and he could not say when she would be able to rectify this barrier to reunification.

Respondent had allowed individuals into her home without prior approval from DHHS and had associated with convicted drug users and known criminals. Respondent obtained a personal protection order against one of these individuals. And respondent lied about another relationship that she now claims ended in October 2019. As respondent was supposed to be focused on her sobriety, such relationships potentially jeopardized her sobriety.

Additionally, while respondent was appropriate while supervised, there were concerns. Respondent was more focused on the oldest child than the younger ones. Furthermore, respondent did not understand how to appropriately discipline the children in light of their ages and development.<sup>2</sup> In two years, respondent never progressed beyond supervised visitation as she continued to prioritize her own desires over her children's needs.

In sum, although respondent was currently employed<sup>3</sup> and had been sober since 2019, the record supports the trial court's finding that respondent was still unable to care for the children, and she had still failed to accomplish any meaningful progress regarding her ability to care and

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<sup>2</sup> Respondent failed to consistently participate in the Pregnancy Services program for parenting skills, meaning she was unable to be referred to and to participate in the Parenting for Success Program during the first year of the case.

<sup>3</sup> Respondent had been employed from December 2018 through October 2019, but was laid off until December 2019. Respondent had a temporary position with EMP, working approximately 32 to 40 hours per week at \$13.50 per hour. Between the time the termination petition was filed and the termination hearing, respondent secured additional part-time work as a hostess, earning \$10 per hour, on evenings and weekends. In light of this, there was an issue with respondent having an appropriate babysitter for the children.

provide adequate and stable housing for her children, to prioritize and meet her children's daily needs, and to attend to them without supervision.

The record also supports the trial court's finding that there was no reasonable likelihood that respondent would rectify these existing barriers in the foreseeable future. "[T]he Legislature did not intend that children be left indefinitely in foster care[.]" *In re Dahms*, 187 Mich App at 647; see also *In re Williams*, 286 Mich App at 272-273 ("The circuit court correctly determined that the two years [the child] already had spent in foster care, her entire life, constituted too long a period to await the mere possibility of a radical change in respondent mother's life."). The children had been in care for over two years and there was no indication that respondent would rectify the remaining barriers within a reasonable time given the length of time this case was pending and the lack of progress in certain areas. Accordingly, we cannot conclude that the trial court clearly erred when it terminated respondent's parental rights under MCL 712A.19b(3)(c)(i).<sup>4</sup>

### III. BEST INTERESTS

Respondent argues that the trial court clearly erred when it determined that termination of her parental rights was in the best interests of the children. We disagree.

"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). Whether termination of parental rights is in a child's best interests must be proven by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). When considering best interests, the trial court must focus on the child rather than the parent. *Id.* "The trial court should weigh all the evidence available to determine the child's best interests." *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). In deciding a child's best interests, a court may consider 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 how long the child has lived in the present home, and the likelihood that the child "could be returned to [the] parent[s] home within the foreseeable future, if at all." *In re Frey*, 297 Mich App 242, 249; 824 NW2d 569 (2012). Other factors that the trial court can consider are "the parent's compliance with . . . her case service plan, the parent's visitation history with the child[ren], the children's well-being while in care, and the possibility of adoption." *In re White*, 303 Mich App at 714.

The evidence supports the trial court's determination that termination of respondent's parental rights was in the best interests of the children. See *In re Kaczowski*, 325 Mich App 69, 78-79; 924 NW2d 1 (2018) (concluding that the trial court did not clearly err by determining that the termination of the respondent's parental rights was in the child's best interests when the respondent made little progress in addressing the main reason for adjudication and the child, who

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<sup>4</sup> Because DHHS need only establish one statutory ground by clear and convincing evidence to terminate respondent's parental rights, *In re HRC*, 286 Mich App at 461, we decline to address the remaining statutory grounds.

had been in foster care for approximately 2½ years, was bonded to her foster parents, the foster parents were willing to adopt the child, and the caseworker opined that termination would provide the child with permanency); *In re White*, 303 Mich App at 714 (holding that the trial court did not clearly err when it determined that termination was in the children’s best interests when the trial court gave strong weight to the children’s need for permanence, safety, and stability, and, despite the respondent’s strong bond with the children, she had a history of failing to comply with her case service plan). Although in this case the trial court recognized that the children had been placed with their grandfather, which weighed against termination, it found that a preponderance of the evidence established that termination of respondent’s parental rights was in the best interests of all the children. The trial court found that the children needed stability, permanency, and finality, that respondent was not able to provide that for the children, and that there was no evidence that she would be able to do so in the foreseeable future. The court also found that the children had lived with their grandfather for over two years, that he was willing to adopt all three children, and that he was able to provide stability and finality for the children.

Moreover, the foster care worker testified that termination of respondent’s parental rights was in the children’s best interests because respondent was unable to provide for the children, despite being provided multiple services and adequate time to address the barriers to reunification. As discussed above, respondent was unable to provide for the children because she could not financially meet their needs. The foster care worker testified that respondent was unable to provide permanency for the children because she did not have appropriate housing or supplies, and had not demonstrated that she was able to plan and execute what she needed to do in order to meet the children’s needs. The foster care worker was also concerned that respondent did not understand or know how to discipline the children appropriate to their ages and development. Respondent’s parenting time remained supervised throughout the entire case. Also, respondent had struggled to engage with KS2 and JS, and had less of a bond with KS2 and JS than she had with KS1. KS2 would pull away or was otherwise less engaged than KS1 during parenting time. The record indicates that JS had spent almost his entire life out of respondent’s care and that KS2 had spent a greater portion of his life outside of respondent’s care. The record also indicated that the grandfather’s home was a safe and stable environment for the children and that he was able to provide permanency, stability and finality and meet their needs.

Respondent’s failure to benefit and comply with services fully also supported the court’s finding that termination of her parental rights was in the children’s best interests. Her history of failing to comply with and benefit from her case service plan indicated that she still could not provide the children a permanent, safe, and stable home. Further, the evidence showed that it was unlikely that the children could be returned to her home within the foreseeable future. Accordingly, we cannot conclude that the trial court clearly erred when it found that termination of respondent’s parental rights was in the children’s best interests.

Affirmed.

/s/ Anica Letica  
/s/ Michael J. Riordan  
/s/ Thomas C. Cameron