# STATE OF MICHIGAN

# COURT OF APPEALS

*In re* C DUNCAN, Minor.

UNPUBLISHED
March 25, 2021

No. 353428
Gogebic Circuit Court
Family Division
LC No. 17-000019-NA

*In re* H DUNCAN, Minor.

No. 353429
Gogebic Circuit Court
Family Division
LC No. 18-000078-NA

Before: MARKEY, P.J., and SHAPIRO and GADOLA, JJ.

PER CURIAM.

In Docket No. 353428, respondent appeals by right the trial court's order terminating her parental rights to the minor child, CD, under MCL 712A.19b(3)(c)(*i*) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if returned to parent). In Docket No. 353429, respondent appeals by right the trial court's order terminating her parental rights to the minor child, HD, under the same grounds.[1] We affirm.

[1] During the proceedings, the trial court also terminated the parental rights of the children's father, CB. He is not a party to this appeal.

## I. BACKGROUND

In February 2017, the Department of Health and Human Services (DHHS) filed a petition requesting that CD be removed from respondent's care on the basis that respondent was incarcerated for violating parole. She violated parole by allowing the children's father, CB, to stay in her apartment. CB was also incarcerated at the time the petition was filed for violating his parole, considering that he was not permitted to have contact with respondent. CD was formally removed from respondent's care following the preliminary hearing, and respondent was released from jail later that month. In April 2017, the trial court ordered that CD be returned to respondent's care so long as there was no contact with CB. CB was released from jail in May 2017. The DHHS had alleged that CB sexually assaulted a nine-year-old girl when he was 15 years old and that CB began dating respondent soon after he was released from juvenile justice placement on May 4, 2015, "despite court orders against this."

In June 2017, the trial court ordered respondent to reside with Dawn Everson in Iron Mountain, but in September 2017, the trial court granted respondent's motion to remove the requirement that she reside with Everson on the basis that Everson was moving.[2] Respondent moved to Gogebic County in October 2017, and she moved into her current apartment in November 2017. In November 2017, CB was arrested in Gogebic County for shoplifting, and he had respondent's food card with him. Respondent denied that she had been in contact with CB, claiming that her sister gave CB her coat and that the food card had been inadvertently left in a coat pocket. CD was removed from respondent's care a second time in January 2018 on the basis that she allowed CB to be in contact with CD. CB was arrested at a home in Ironwood. DHHS later learned that respondent and CD often went to that home.

In October 2018 on the day HD was born, DHHS filed a supplemental petition requesting that the court take jurisdiction over HD. The trial court granted in-home jurisdiction on the condition that respondent not have contact with CB. The trial court returned CD to respondent's care in January 2019. In November 2019, CD began exhibiting aggressive behaviors, such as hitting and swearing. In December 2019, the children were removed from respondent's care on the basis that respondent was allowing CB to reside in her household. CB was arrested at respondent's apartment. DHHS filed a termination petition in January 2020, and respondent's parental rights were terminated on March 26, 2020. This appeal followed.

## II. ANALYSIS

Respondent first argues that the trial court clearly erred by terminating her parental rights to the children under MCL 712A.19b(3)(c)(*i*), (g), and (j). Respondent also contends that the trial court clearly erred by finding that termination of her parental rights was in the children's best interests.

[2] Everson was respondent's previous foster care worker when respondent was 10 years old, and she became respondent's foster parent when respondent was 16 years old.

If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proved by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); MCR 3.977(H)(3); *In re Beck*, 488 Mich 6, 10-11; 793 NW2d 562 (2010); *In re Moss,* 301 Mich App 76, 90; 836 NW2d 182 (2013); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). "This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "A finding . . . is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed[.]" *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004). When applying the clear error standard in parental termination cases "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); see also MCR 2.613(C).

MCL 712A.19b(3)(c)(*i*) provides that a trial court may terminate a respondent's parental rights 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." "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 701, 710; 846 NW2d 61 (2014) (quotation marks and citation omitted).

In this case, the initial disposition order for CD was entered on April 21, 2017; the initial disposition order for HD was entered on November 8, 2018, and respondent's parental rights were terminated on March 26, 2020. Therefore, more than 182 days had elapsed since the initial disposition orders were entered.

The primary condition leading to adjudication in both cases concerned respondent's inappropriately allowing CB to be present. At the termination hearing, respondent testified that CB lived with her except when he was incarcerated. As the trial court noted, respondent indicated that she knew that she was to have no contact with CB and that she was required to keep CB away from the children. Despite this knowledge and without telling DHHS or her service providers, respondent continued to live with CB and permit him to be around the children. Although respondent testified that she would no longer have contact with CB, her previous behavior belied her promise of future compliance. Given that the case had been open for over three years, there was no reasonable likelihood that the conditions that led to adjudication would be rectified within a reasonable time considering the children's ages. See MCL 712A.19b(3)(c)(*i*). Accordingly, we are not left with a definite and firm conviction that a

mistake was made with respect to the trial court's ruling that termination was proper under MCL 712A.19b(3)(c)(*i*).[3]

With respect to the children's best interests, we place our focus on the children rather than the parent. *In re Moss*, 301 Mich App at 87. In assessing a child's best interests, a trial court may consider such factors as a "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." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted). "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 at 714.

Contrary to respondent's argument, the trial court acknowledged the bond between the children and respondent. But the trial court also focused on the children's well-being while in care, the advantages of the children's foster home over respondent's home, and the children's need for permanency and stability. While respondent failed to demonstrate that she would no longer maintain contact with CB,[4] the children's foster parents were able to provide the children with the stability they needed. The children had adjusted well in their current placement. In particular, CD's aggressive behaviors had markedly improved, and he was able to take direction from his foster parents. We hold that the trial court did not clearly err by finding that termination of respondent's parental rights was in the children's best interests.[5]

---

[3] Because only one statutory ground is required to terminate a respondent's parental rights, we need not address respondent's arguments that the trial court erred by terminating her parental rights under MCL 712A.19b(3)(g) and (j). See *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012).

[4] Respondent argues that she "was denied due process by the lower court's reliance on the subjective opinions that [CB] was harmful to the children." This is the full extent of respondent's argument; it is completely undeveloped and thus we deem it abandoned. See *In re TK*, 306 Mich App 698, 712; 859 NW2d 208 (2014) (a party cannot simply assert an error or announce a position and then leave it to this Court to discover and rationalize the basis for the claims or unravel and elaborate his argument, and then search for authority to sustain the position).

[5] Respondent states that efforts to reunify her with the children "were not adequate to accomplish that goal because." This incomplete sentence is contained in both of respondent's briefs. Regardless, the record demonstrated that the DHHS provided respondent with adequate reunification efforts—three years' worth. See MCL 712A.19a(2); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

We affirm.

/s/ Jane E. Markey
/s/ Douglas B. Shapiro
/s/ Michael F. Gadola