

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

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*In re* LIGHTHALL, Minors.

UNPUBLISHED  
April 15, 2021

No. 355032  
Clare Circuit Court  
Family Division  
LC No. 18-000067-NA

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Before: CAMERON, P.J., and K. F. KELLY and M. J. KELLY, JJ.

PER CURIAM.

Respondent appeals the trial court’s order terminating her parental rights to the minor children, CL, KL, BL, and ZL, under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (c)(ii) (failure to rectify other conditions), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if returned to parent).<sup>1</sup> We affirm.

I. BACKGROUND

This matter began in September 2018, when the Department of Health and Human Services (DHHS) filed a petition. The petition alleged that BL, who had been diagnosed with Crohn’s disease, had been medically neglected by respondent by virtue of her failure to obtain necessary medical care and necessary medication for BL. DHHS also alleged that respondent had been using methamphetamines and that she had refused to participate in drug treatment or screening. Additionally, respondent was facing eviction from her home, the children had witnessed domestic violence while staying with respondent, and the children had missed a significant amount of school. The petition was later amended to include additional allegations concerning respondent’s use of methamphetamines in the family home. DHHS requested that the trial court remove the children from respondent’s care and custody and exercise jurisdiction. The petition was

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<sup>1</sup> The trial court also terminated the parental rights of the children’s father. The father is not a party to this appeal.

authorized, the children were removed from respondent's care, and respondent was granted supervised parenting time.

At a January 2019 hearing, respondent admitted to and pleaded *nolo contendere* to certain allegations in the amended petition. Thereafter, the trial court exercised jurisdiction and ordered that reasonable efforts toward reunification would be made. DHHS created a case service plan, which the trial court adopted. Respondent was ordered to participate in and benefit from (1) parenting classes, (2) individual therapy, and (3) substance abuse treatment. Respondent was also ordered to complete a psychological evaluation, submit to random drug screenings, obtain a legal source of income and suitable housing, and regularly attend visits with the children. Respondent's participation in the case service plan was poor, and she failed to demonstrate an ability to maintain sobriety, stable housing, and employment. Respondent also engaged in inappropriate and often erratic behavior during her parenting time and attempted to give BL food and beverages that aggravated his Crohn's disease. Respondent's parenting time was ultimately suspended.

In February 2020, petitioner filed a supplemental petition, requesting that the trial court terminate respondent's parental rights to the children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). At the termination hearing, the caseworker testified about respondent's lack of progress for a majority of the proceeding. After the close of proofs, the trial court found that DHHS had established by clear and convincing evidence that it was appropriate to terminate respondent's parental rights under the statutory grounds cited by petitioner in the supplemental petition and that termination of respondent's parental rights was in the children's best interests. This appeal followed.

## II. ANALYSIS

Respondent argues that the trial court clearly erred by finding clear and convincing evidence supporting the statutory grounds cited in support of termination. We find no clear error warranting reversal.

"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). A finding is clearly erroneous if, although there was evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). To be clearly erroneous, a decision must be more than maybe wrong or probably wrong. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). This Court must give regard "to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." MCR 2.613(C).

We conclude that the trial court did not clearly err by finding that termination was warranted under MCL 712A.19b(3)(c)(i) and (c)(ii), which provide as follows:

[t]he 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.

In this case, at the time of termination, "182 or more days" had "elapsed since the issuance of [the] initial dispositional order" with respect to respondent. See MCL 712A.19b(3)(c). Additionally, for the following reasons, we conclude that respondent failed to rectify her issues during the proceeding despite being provided with services that were geared toward facilitating reunification.

The children were removed from respondent's care, in part, because of her issues with substance abuse. At the beginning of the proceeding, methamphetamines were detected on the walls of the home that respondent shared with the children. Despite this, respondent denied that she had an issue with substance abuse and did not fully comply with substance abuse screenings. Specifically, the caseworker testified that, "up until November 2019, [respondent] participated in nine percent of the drug screens[.]" From November 2019 through September 3, 2020, respondent "participated in about four percent of the drug screens." When respondent did submit to drug screenings, she would sometimes test positive for illegal substances.<sup>2</sup> Although respondent completed a substance abuse assessment, she failed to participate in the recommended outpatient treatment. Respondent also failed to address her mental health issues by completing a psychological evaluation and by continuously attending individual therapy. This was the case despite respondent being provided with referrals and being told by the trial court and the caseworker that it was "important" for her to participate.

Respondent's untreated mental health issues impacted her interactions with the children. According to the caseworker, despite respondent completing parenting education services and participating in family counseling, the visits were "quite frantic," "sometimes . . . unsafe for the

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<sup>2</sup> Respondent argues that she was required to participate in substance screenings in order to obtain certain employment, thereby demonstrating that she had maintained sobriety during the proceeding. However, respondent did not present evidence at the termination hearing to support that she had submitted to substance screenings independent of the screenings required by DHHS.

children,” and “typically not appropriate for the kids.” The caseworker noted that, when respondent would become “emotionally dysregulated,” she would “rely on the children to stabilize her mood.” Respondent also made inappropriate comments to the children, at times instructing them to misbehave in their foster homes. The children were anxious both before and after parenting time and “tended to be very upset” after parenting time. Respondent also brought food and beverages to parenting time that were inappropriate for BL to consume because of his Crohn’s disease. When respondent was “redirected,” respondent would become “very upset” and would indicate that she could feed BL “whatever she wanted to feed him.” Although respondent was instructed that she could take a break from the visits if she needed to calm down, respondent did not do so. Respondent’s parenting time was suspended in February 2020, and the children’s mental health improved.

Respondent also failed to resolve her issues with housing. At the time of the September 3, 2020 termination hearing, respondent did not have independent or stable housing. Specifically, respondent was living in a home that her mother’s boyfriend owned; respondent admitted that she did not have a possessory interest in the home. Respondent also indicated that the four children, who were between 11 and 15 years of age, would have to share a room in the home. According to the caseworker, respondent had never obtained independent housing during the proceeding despite being referred to a housing agency. Although respondent was able to obtain employment during the proceeding, she would only maintain it for a few months. At the time of the termination hearing, respondent was receiving unemployment. Thus, “the totality of the evidence amply supports” that respondent “had not accomplished any meaningful change in the conditions” that led to adjudication, see *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009), and that respondent had failed to rectify other conditions that could have caused the children to come within the trial court’s jurisdiction despite being provided with notice and a reasonable opportunity to rectify the conditions, see MCL 712A.19b(3)(c)(ii).

The record does not support that respondent would be able to rectify her issues within a reasonable time considering the children’s ages. See MCL 712A.19b(3)(c). Respondent lacked commitment throughout the proceeding, was unable to demonstrate stability and maintain sobriety, and refused to take responsibility for the children being taken into care. Given respondent’s history, the caseworker did not believe that respondent would participate in services if given additional time. At the time of termination, the children had been out of respondent’s care for nearly two years and had not seen her since February 2020. The children needed permanency and could not wait an indefinite amount of time for respondent to improve. See, e.g., *In re Dahms*, 187 Mich App 644, 647-648; 468 NW2d 315 (1991) (holding that, because the Legislature did not intend for children to be left in foster care indefinitely, it is proper to focus on how long it will take a respondent to improve and on how long the involved children can wait). Thus, the record supports that there was no reasonable likelihood that respondent would rectify her issues within a reasonable time. See MCL 712A.19b(3)(c). We conclude that the trial court’s finding that

termination of respondent's parental rights was proper under MCL 712A.19b(3)(c)(i) and (c)(ii) was not clearly erroneous.<sup>3</sup>

Affirmed.

/s/ Thomas C. Cameron

/s/ Kirsten Frank Kelly

/s/ Michael J. Kelly

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<sup>3</sup> Because termination was proper under (c)(i) and (c)(ii), this Court need not specifically consider the additional grounds upon which the trial court based its decision. See *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).