

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

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UNPUBLISHED  
June 30, 2011

In the Matter of S. WILLIAMS, Minor.

No. 301256  
Wayne Circuit Court  
Family Division  
LC No. 05-440043

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In the Matter of S. WILLIAMS, Minor.

No. 301261  
Wayne Circuit Court  
Family Division  
LC No. 05-440043

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Before: FITZGERALD, P.J., and SAWYER and BECKERING, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (j). We affirm.

Respondents contend that the trial court erred in terminating their parental rights where they substantially complied with the case service plan and there was no risk to the child. We disagree. Termination of parental rights is appropriate where petitioner proves one or more grounds for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re B and J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). This Court reviews the lower court's findings under a clearly erroneous standard. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

In the present case, the trial court findings were not clearly erroneous. Respondent father tested positive for alcohol five times — in June and July of 2008, February and May of 2009, and April of 2010. He and respondent mother both appeared intoxicated when the former L-GAL visited in May 2009 and on other occasions. The caseworker also smelled alcohol on the parents' breaths at visitation. Respondent mother admitted she drank alcohol until about April 1, 2010, which was two years after the child came into care. Respondents had been ordered not to drink or have alcohol in their home. Their failure to comply and to stop drinking would clearly

pose a risk of harm to a young child. Respondents had had their rights terminated to other children, based partly on substance abuse.

Another significant issue was respondents' failure to visit the child as required by the case service plan. Neither parent visited between May 3 and July 26, 2010, which is a long time in the life of a toddler, or any child. Before and after this, respondents' visits were also inconsistent. Respondent mother even admitted needing to "stop putting everything in front of" her child. While respondents testified that they loved their child, their actions did not show a true commitment to parenting or correction of the serious issues that necessitated removal. Parents must benefit from services in order to be able to provide a safe, nurturing home. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005).

Respondents further claim that the trial court committed error requiring reversal in allowing the caseworker to testify regarding missed drug screens, where she based her testimony on reports of persons not called to testify. MCR 3.977(H)(2) provides that the rules of evidence do not apply in child protective proceedings, and that "all relevant and material evidence, including oral and written reports, may be received." The rule also states that the parties must be afforded the opportunity to examine written reports and cross-examine their authors. Here, respondents repeatedly cross-examined the caseworker, and she attached to her January and February 2010 court reports the call logs for respondents' drug screens. While these reports did not cover the entire period, the worker testified from her personal experience and recollection that respondents were missing screens and not complying with screening procedures. Any error on this issue is also harmless, because clear and convincing evidence to terminate respondents' parental rights was established by other evidence, not including the missed screens.

Although respondents have not raised the issue, we also find no clear error in the court's finding that termination of respondents' parental rights was in the child's best interests. MCR 3.977(H)(3); MCR 3.977(K); MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-357; *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009).

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ David H. Sawyer  
/s/ Jane M. Beckering