

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

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*In re* NORGREN/ODNEAL/BLANKS, Minors.

UNPUBLISHED  
May 10, 2016

No. 329171  
Oakland Circuit Court  
Family Division  
LC No. 12-792772-NA

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Before: BOONSTRA, P.J., and METER and BECKERING, JJ.

PER CURIAM.

Respondent appeals by right the order of the trial court terminating her parental rights to three of her minor children, LN, LO, and KB, under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

Respondent is the mother of the three minor children that are the subject of this appeal.<sup>1</sup> In January 2012, petitioner filed a petition seeking removal of six children, including LN and LO, from respondent's home, alleging that respondent did not properly supervise her children, had tested positive for marijuana while pregnant with a seventh child, and had failed to protect her children from harm. Specifically the petition alleged that the children had been left unsupervised on two occasions, and that respondent had allowed her live-in partner, the father of LO, to discipline the children by hitting them with a belt. Further, the petition alleged that respondent had received services from various service providers but was not compliant with them, had unstable housing, and had been the victim of domestic violence from her partner while the children were present. Respondent did not object to the removal at the preliminary hearing and the petition was authorized. The children were placed with family members and respondent was granted supervised visitation.

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<sup>1</sup> Respondent is also the mother of five other minor children, all of whom were part of the proceedings below but were released from the court's jurisdiction in July 2014 after their placement in juvenile guardianships with family members. The other children are not parties to this appeal.

In May 2012, respondent pleaded to the allegations in the initial petition that she had tested positive for marijuana while pregnant, that her housing was unstable, and that she had had a physical altercation with her live-in partner in front of the children and had allowed him to remain in the home afterward. She also pleaded to the allegations in the supplemental petition filed following the birth of her seventh child (who is not at issue in this appeal). The trial court took jurisdiction over all of the children, and respondent signed a parent/agency agreement that included random drug testing, domestic violence counseling, and compliance with wraparound services for the children, as well as requiring her to obtain suitable housing and employment.

Respondent initially made significant progress in rectifying the conditions that led to the children's removal. Respondent initially made progress in completing the goals established in her plan. In August 2012, she reported that she had obtained employment, although this was not verified, and her drug screens were all negative. Petitioner reported that respondent displayed exceptional parenting skills during visitation. Respondent had applied for housing assistance and had a home in mind, although she could not yet afford the security deposit. Respondent participated in parenting classes and individual therapy. Respondent was granted unsupervised visits with her children. During this time period, the children did well in their placements, except for LN, who had special needs issues including incontinence, truancy, and physical aggression.

Respondent continued to make progress on her plan through the end of the year, although she had not successfully obtained housing. At a November review hearing, representatives of two housing assistance providers explained the lack of affordable housing options in respondent's area and the delays in the process of obtaining housing assistance; however, a plan was in place to attempt to address respondent's need. At that review hearing, respondent's counsel reported that she was employed full-time and had a car for transportation. Later in November, petitioner informed the trial court that it had approved an expenditure of \$1,600 to move respondent into appropriate housing. Respondent had arranged for a childcare provider that petitioner had approved. Respondent moved into the home in early December. LN and LO were returned to respondent's care with the goal of reunification.

Respondent did not pay the rent on her housing in January and February 2013, claiming that the property was in tax foreclosure and that there was water damage to her property in the basement. Respondent did not place her rent funds in escrow as she was advised to do. Respondent missed two drug screens but had no positive screens. Petitioner reported that LN had some problems with truancy at his school due to respondent picking him up at 12:30 p.m. in order to get to work on time.

In May of 2012, respondent had obtained a new job with more regular hours. Respondent had missed drug screens on March 2, April 5, and April 24, but completed unscheduled tests, which were negative, on March 6, April 11, and April 29. Respondent had been the subject of an eviction proceeding but had ultimately paid the rent using community resources. In addition to the children who were living with respondent, her other children were doing well with unsupervised overnight visits with her.

In June 2013, petitioner reported that respondent had missed an additional drug screen in May, and although she stated that she was employed, she had not provided employment

verification. Respondent was having trouble with her landlord and difficulty paying rent; she hoped to move soon. The goal for LN and LO remained unification.

LN had some instances of physical aggression at summer daycare, and relatives reported to petitioner that the children in placement with them returned with behavior and hygiene problems after visitation with respondent. Respondent moved to a different apartment in July 2013, and reported that she then had part-time employment at Meijer. Respondent was pregnant with KB. A Child Protective Services (CPS) complaint was filed on August 11, 2013, alleging that while all seven children were visiting, respondent left them alone overnight and went to the bar.<sup>2</sup> In addition, a gun was left unattended on a nightstand and the door was unlocked, allowing a stranger to enter the home and threaten one of her children. Another report provided that respondent allowed LN to ride in the back of a sports utility vehicle without a seatbelt. Following these incidents, petitioner hosted visitation instead of allowing it at respondent's home.

KB was born in September 2013. Petitioner petitioned the court for jurisdiction over KB, but KB was not removed from the home. Respondent pleaded not responsible to charges of anticipatory neglect in the supplemental petition for KB in November 2013. At a review hearing in November, petitioner reported that respondent had left KB in the car while dealing with a problem with LN's behavior inside a McDonald's restaurant, which required a police response. Respondent also tested positive for opiates, but had a prescription for hydrocodone after the birth of KB. Respondent reported working as a housekeeper for cash.

In January 2014, respondent and her children were evicted from her apartment for failure to pay rent. Respondent had not informed petitioner that she was the subject of eviction proceedings and petitioner did not know where she and the three children were, as she had left no address and her phone service had been cut off. Respondent pleaded no contest to an amended petition that included KB and that alleged lack of appropriate housing. The children living with respondent were removed. Respondent had not submitted proof of her employment or address since the eviction. LN was placed in a residential facility, and LO and KB were placed with a maternal aunt. Respondent missed two drug screens in January and February 2014, and did not provide verification of employment although she claimed that she was still working as a housekeeper.

Guardianships for respondent's other children were finalized in the summer of 2014. In July of 2014, petitioner filed a petition seeking termination of respondent's rights to LN, LO, and KB. Petitioner reported that LN did not do well at his residential placement, had required the use of restraints, and had been suspended from school. He had recently been moved to a non-relative foster home of a friend of the family.

A termination hearing was held beginning on December 9, 2014 that did not conclude until June 29, 2015. LN had returned to residential placement on Labor Day weekend; he had to

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<sup>2</sup> The oldest child was 11 years old at the time.

be removed from his foster home by police when he had a “blow-up” after a visit from respondent. The trial court heard testimony from LN’s therapist indicating that he was physically aggressive and required special education, but had improved since he entered therapy and had returned to residential placement. The therapist reported that LN only infrequently talked about respondent and did not ask to call or visit her. The foster care worker for the three children reported that LN and KB had been placed with their great-aunt and were doing well, although LN had a slight speech delay.

An employee of petitioner reported that respondent had mostly been in compliance with drug testing until January 2014, although two of those tests had been positive for marijuana, but after that had only completed 10 of 51 required screens. Three of the screens after January 2014 returned positive for opiates while respondent did not have a current prescription for hydrocodone. Respondent had never attended any substance abuse counseling or assessments.

The trial court heard testimony regarding respondent’s housing history, which included periods of homelessness and one eviction for unpaid rent. After the eviction, respondent and her children stayed with her friend who had been previously convicted of murder. Respondent lived in four different places after January 2014; respondent’s mother opined that none of the places were suitable for children. Respondent had not contacted petitioner to inspect her current home in Pontiac.

The trial court also heard testimony regarding respondent’s employment history. As noted above, respondent frequently failed to verify the employment she claimed to have. Respondent’s mother testified that she had heard that respondent dealt drugs and that her niece had purchased heroin from respondent. Respondent denied this. At the time of the termination hearing, respondent claimed that she was starting a t-shirt business and cleaned houses for cash, but could provide no verification in support of either claim.

A psychologist who evaluated respondent opined that respondent had unresolved substance abuse issues that were worsening, and testified that her psychological testing indicated that respondent had an inability to internalize information, which would make it difficult for her to recognize her shortcomings and change her circumstances to benefit her children. The psychologist opined that respondent had not benefitted from the services she had been provided.

On August 6, 2015, the trial court entered an order terminating respondent’s parental rights to the three minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). In a corresponding opinion, the trial court addressed each statutory basis for termination and the best interests of the children. Regarding MCL 712A.19b(3)(c)(i), the trial court acknowledged testimony that, until January 2014, respondent did well with certain aspects of the parent/agency agreement, but struggled with maintaining housing and employment. The trial court then cited evidence of respondent’s subsequent failure to completely comply with the agreement in the areas of substance abuse screening, life skills classes, housing, employment, therapy, and parenting time. The trial court also cited testimony regarding respondent’s lack of consistency, self-centeredness, and inability to benefit from services provided or rehabilitate. As a result, the trial court concluded that the conditions that led to the adjudication (drug abuse, lack of suitable housing, and lack of employment) continued to exist and that there was no reasonable likelihood that the conditions would be rectified given the children’s ages.

Regarding MCL 712.A19b(3)(g), the trial court concluded that respondent had failed to provide proper care and custody for the children and that there was no reasonable expectation that she would be able to do so within a reasonable time. The trial court acknowledged respondent's love for her children and their love for her, but nevertheless repeated that respondent had failed to show that she could refrain from drug use or maintain a stable home and employment. The trial court also cited respondent's failure to obtain grief counseling<sup>3</sup> for LN and his instability while in her care, as well as opinions from the therapist and caseworker that it was unlikely that respondent could rehabilitate.

Regarding MCL 712.A19b(3)(j), the trial court found that respondent could not properly care for the children without appropriate housing or lawful employment. The trial court also found that respondent's choice to associate with people using drugs and with criminal records (including murder) was a continued danger to the children. The trial court found that, despite respondent's denial, the record demonstrated that she was selling drugs, which presented another continued danger to the children.

The trial court then concluded that it was in the children's best interests to terminate respondent's parental rights. The trial court recognized the love respondent and the children share, but also found no evidence of a current bond, citing testimony that LN did not ask about respondent, respondent had not seen LO or KB since July 2014, and she did not reach out to the children with gifts or correspondence at holidays after visitation was suspended. The trial court again cited respondent's failure to comply with the parent/agency agreement and to provide suitable housing. The trial court rejected respondent's request to place the children in guardianships, noting that she had had minimal contact with the five children already in guardianships and that she did not pay the full amount of support for those children.

This appeal followed.

## II. STANDARD OF REVIEW

This Court reviews for clear error the trial court's determination regarding the statutory grounds for termination and the best interests of the children. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). "A finding of fact is clearly erroneous where the reviewing court is left with a definite and firm conviction that a mistake has been made." *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). "When reviewing the trial court's findings of fact, this Court accords deference to the special opportunity of the trial court to judge the credibility of the witnesses." *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

## III. STATUTORY BASIS FOR TERMINATION

Before terminating a parent's rights, a court must find by clear and convincing evidence that one or more of the statutory grounds for termination listed in MCL 712A.19b(3) exists. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

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<sup>3</sup> LN's father died in September 2013.

Here, the trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), which permit termination under the following circumstances:

(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.

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(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

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(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Allegations in the petitions, for LN and LO in January 2012 and for KB in September 2013, included respondent's drug use while pregnant, unstable housing, domestic violence, improper supervision of her children, failure to provide proof of a legal income, and failure to benefit from support services provided.

Regarding substance abuse, the record demonstrated that respondent was generally compliant with drug screens initially, but during that time, she nevertheless missed some screens, some screens appeared to be diluted, and some screens were positive for marijuana and her seventh child was born with marijuana in his system. As the case progressed further, respondent completed only 10 of 51 drug screens, and three were positive for opiates. Respondent argues that she had a prescription that could explain the presence of opiates in her screens in April and June 2014. But the record only demonstrates earlier prescriptions in the fall of 2012 (related to back pain and kidney stones) and November and December of 2013 (related to child birth).

Regarding unstable housing, the record demonstrates that respondent had a series of temporary housing arrangements, she failed to communicate with petitioner and family members with changes of address, and her housing was not always approved by petitioner. Respondent argues that the trial court and petitioner failed to consider the reasons underlying one of her first moves in 2013. The trial court recognized in its opinion, however, that respondent stopped paying rent there due to flooding in the basement, but that she was also advised to put the money into escrow while awaiting repairs and failed to do so. The record demonstrates that respondent

then moved with two of her children because of her inability to pay the rent. This individual move did not trigger the children's removal from her care, however. She maintained custody of her children until she was again unable to pay for her new rental, was evicted, and failed to notify authorities and family members where she moved the children afterward. In the year following that eviction and the children's second removal, respondent lived in at least four different locations and none were approved for housing the children.

Respondent also argues that petitioner and the trial court should have made efforts to assist her in obtaining housing for herself and LN, LO, and KB after guardianships were established for her other five children. She notes that finding housing for three children should have been easier than finding housing for eight children. However, nothing in the record demonstrates that respondent requested, and was denied, specific housing resources from petitioner during this time period. Moreover, on the same day that the trial court terminated jurisdiction over the other five children because of the guardianships, petitioner petitioned for termination of respondent's parental rights of LN, LO, and KB. Reunification services were not required when termination was the agency's goal. *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009).

Regarding employment, the record demonstrates that respondent had a series of short-lived positions. Throughout the entire proceedings, petitioner repeatedly reported that respondent had lost employment, found new employment, and on many occasions failed to provide verification of that employment. Even at trial, respondent claimed that she was cleaning houses and starting a t-shirt business, but no records confirmed her testimony. In addition, the trial court found credible respondent's mother's testimony that respondent was earning money illegally selling drugs.

Regarding parenting, domestic violence, and respondent's failure to benefit from support services, the record demonstrates that respondent attended domestic violence classes and parenting classes. Witnesses testified that the children were well cared for by respondent and that respondent and the children loved one another. But the psychologist who reviewed the case and evaluated respondent also testified that respondent tended to be unable to internalize information. As a result, she did not benefit from the services she attended.

Considering all of these facts demonstrating respondent's lack of progress, we are not left with a definite and firm conviction that a mistake was made when the trial court concluded that the conditions that led to the adjudication continued to exist and that there was no reasonable likelihood that the conditions would be rectified within a reasonable time. MCL 712A.19b(3)(c)(i).

Because one ground for termination was established, it is not necessary to consider the additional grounds upon which the trial court based its decision. *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). Nonetheless we note that given respondent's failure to comply with the parent/agency agreement, including her responsibilities to obtain stable housing and employment and consistently visit her children, the trial court did not clearly err in concluding that she failed to provide proper care or custody for the children. MCL 712A.19b(3)(g). And the trial court found credible testimony that respondent was at least somewhat involved in the selling of controlled substances, which, coupled with her failure to maintain appropriate housing and

stable legal employment and her past failures to adequately supervise the children in her care, could reasonably have exposed her children to future harm if they were returned to her home. MCL 712A.19b(3)(j). Although respondent did complete some services, she failed to substantially benefit from them, despite the lengthy period in which she was provided those services. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005), superseded by statute in part on other grounds in MCL 712A.19b(5).

#### IV. BEST-INTEREST DETERMINATION

Respondent next argues that the trial court improperly determined that termination of her parental rights was in the children's best interests. We disagree. "[W]hether termination of parental rights is in the best interests of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court should weigh all the evidence available to it in determining the child's best interests. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). Factors relevant to a determination of the child's best interests include: the child's bond to the parent, the parent's compliance with his or her case service plan, the parent's history of visitation with the child, the child's need for permanency, stability, and finality, the advantages of a foster home over the parent's home, and the possibility of adoption. *Id.* at 713-714.

A preponderance of the evidence supports the trial court's determination that termination of respondent's parental rights to LN, LO, and KB was in the children's best interests. The trial court acknowledged respondent's love for her children, but noted that there was no record of a bond between them. She had not visited them since the summer of 2014, and she had not attempted to maintain a relationship in other ways. Moreover, the record demonstrated that LN rarely discussed respondent in therapy and did not ask others about her. Additionally, despite the fact that respondent initially made positive strides with the parent/agency agreement, her compliance thereafter waned and she failed to provide the stability necessary for the children, particularly LN, who suffered from emotional impairments.

Respondent focuses on petitioner's initial delays in assisting her to obtain housing in 2012, but ignores the fact that, once she received that assistance (albeit delayed, as recognized by the trial court), she was unable to maintain the housing. Respondent also argues that petitioner should have investigated the reason that she lost the first rental she lived in beginning in late 2012, and when she was first reunited with LN and LO. However, no one questioned respondent's claim that the basement was damaged and that she withheld rent as a result of that condition. But respondent failed to demonstrate responsibility necessary to maintain the housing by placing her rent money in escrow while awaiting repairs. Instead, she later uprooted herself and her children again because she could not pay the rent.

Respondent claims that she should have been given another chance to reunite with LN, LO, and KB after her other five children went into guardianship, reasoning that the prospect of caring for three children instead of eight was less daunting. But again, when respondent was responsible for only three of her children, respondent did not demonstrate the ability to properly care for LN, LO, and KB. She did not visit them regularly; she did not comply with drug screens; she did not maintain stable, verifiable employment or housing; and she did not communicate with petitioner regarding her efforts. Moreover, the trial court found that, after

respondent's visitation was suspended in the fall of 2014, she did not attempt to maintain a relationship with the children, such as providing gifts or exchanging correspondence.

Finally, relying on *In re Mason*, 486 Mich at 163-164, respondent argues that the trial court failed to consider the children's placement with relatives as an alternative to termination. In *In re Mason*, the respondent's children were voluntarily placed with the respondent's family while he was incarcerated, which made it "unnecessary for [him] to make ongoing arrangements with the relatives that would permit him to preserve his rights and remain in contact with [the children]." *Id.* at 164. Our Supreme Court held that, by failing to consider the placement with the respondent's relatives, the trial court failed to properly consider whether the respondent could "fulfill his duty to provide proper care and custody in the future by voluntarily granting legal custody to his relatives during his remaining term of incarceration." *Id.* at 163.

The facts of this case are distinguishable from *In re Mason*. Only LO and KB were placed with a relative at the time of termination. Moreover, the trial court specifically addressed the placement with relatives and the possibility of guardianship with family members, but rejected that outcome given respondent's failure to facilitate the guardianships with her other children.

In sum, although respondent did make efforts to achieve reunification with her children, ultimately her efforts fell short of establishing an environment where her children would receive the safety and security they need, despite the prolonged length of time, over 38 months, that elapsed between the filing of the initial petition and the eventual termination. The children deserve permanency, stability, and finality, *White*, 303 Mich App at 713, that respondent has demonstrated that she is unable to provide. Thus, the trial court did not clearly err in concluding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Mark T. Boonstra  
/s/ Patrick M. Meter  
/s/ Jane M. Beckering