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

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*In re* HUBBERT/BRALEY, Minors.

UNPUBLISHED  
May 14, 2020

No. 351297  
Monroe Circuit Court  
Family Division  
LC No. 18-024455-NA

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Before: K. F. KELLY, P.J., and BORRELLO and BOONSTRA, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to his children TAH, TLH, TBB, and TLB under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

**I. BASIC FACTS**

The children’s mother gave birth to a child in the fall of 2017, but the infant died a short time later because of unsafe sleep practices. The children’s mother died in October 2017 of a drug overdose. Respondent resided with his four children until February 5, 2018, when they were evicted from his sister’s home. Respondent called the maternal grandmother and asked her to care for the children for two weeks while he searched for housing. Although respondent drafted a document allowing the grandmother to seek medical treatment for the children, it was not legally binding because it was not notarized. Furthermore, it was insufficient to enroll the children in school, which required their birth certificates and social security cards. The grandmother asked respondent to deliver the documents necessary for the children’s care, but he did not do so. In addition to the loss of her daughter and grandchild, the grandmother experienced two other deaths in her family in a short time period. She took a leave of absence from work to care for the children and received no financial support from respondent despite his receipt of over \$1300 in survivor benefits for the children and over \$400 in food assistance. Ultimately, the grandmother was unable to care for the children at that time, particularly when respondent did not provide the necessary legal documents or financial aid. The children were placed with a non-relative foster family.

Once placed in foster care, it was learned that all of the children suffered from physical ailments. The most pressing problems involved one child walking on her tiptoes because of an Achilles heel problem and another child with an eye condition that required surgery. Respondent downplayed the conditions, claiming that they would resolve themselves, and delayed in providing

consent for treatment. Further, he did not timely provide the necessary documentation to establish paternity and school waivers in light of his opposition to immunizations. Additionally, the children were delayed in their education.

Eventually, respondent pleaded to an allegation in the petition, and a case service plan was prepared. Among the terms, respondent was required to obtain housing, find a legal source of income, participate in random drug screens, attend parenting classes, attend parenting visits, and complete a psychological evaluation. Respondent asserted that he suffered from debilitating medical conditions and needed both of his hips and knees replaced. Although he represented that surgery was imminent, he later stated that the surgery was cancelled because he needed housing to recuperate in after the surgery. He also alleged that he could not work because of his physical conditions, and therefore, he did not pursue employment, but disability benefits. Respondent's application for disability benefits was denied during the lower court proceedings. A random drug screen revealed a positive test for a substance for which respondent did not provide a prescription. Respondent objected to further drug screening, claiming that it was not an issue. The trial court allowed the screening to continue and agreed to revisit the issue in light of the test results, but respondent did not appear for any additional screening.

Respondent missed or arrived late for the majority of his parenting visits. The visits were described as chaotic, and respondent engaged in profanity and yelling and took frequent smoke breaks. Respondent did not complete his parenting classes, and he denied making inappropriate remarks to a worker. Respondent faulted the caseworkers for any deficiencies and claimed that he would succeed if another agency was involved. He also blamed the grandmother for the state involvement in his children's lives.

On the contrary, the caseworkers testified to their efforts to assist respondent in the completion of his case service plan. The workers testified that they provided lists of housing resources to submit applications. Additionally, respondent was provided with information regarding a direct transportation service that would pick him up if he provided medical information from his physician. The workers testified that respondent did not follow through with services and did not accept offers for assistance in the housing application process.

The trial court found that the statutory grounds for termination of respondent's parental rights were satisfied by clear and convincing evidence. Although respondent blamed others for his circumstances and a lack of assistance by the agency, the trial court did not find that testimony to be credible. Instead, the trial court found that respondent was an "untrustworthy witness" who provided "inaccurate and inconsistent" testimony. Although he faulted others, the trial court found that "his conduct, lack of dependability, abrasiveness, and unkindness harmed his parent-child relationships." The trial court also concluded that termination of his parental rights was in the children's best interests despite the relative placement. The trial court cited respondent's prior acts of violence against the family, the verbal assaults, and the children's need for permanency instead of a guardianship.

## II. REASONABLE EFFORTS TO REUNIFY

Respondent argues that petitioner failed to make reasonable efforts to reunify him with his children. We disagree.

In a termination of parental rights case, the factual findings underlying the trial court's decisions are reviewed for clear error. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). A finding is clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made. *Id.* We defer to the trial court's special ability to assess the credibility of the witnesses. *In re Miller*, 433 Mich App 331, 337; 445 NW2d 161 (1989).

Petitioner has an affirmative duty to make reasonable efforts to reunify a family before pursuing the termination of parental rights. *In re Hicks/Brown*, 500 Mich 79, 85; 893 NW2d 637 (2017); MCL 712A.18f(3). "While the DH[H]S has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012).

In this case, although respondent claimed that petitioner failed to provide services to assist him, including in obtaining housing and completing parenting classes, petitioner responded that respondent failed to accept the resources it provided and engage in services. The parties acknowledged that respondent was terminated from his parenting classes, failed to attend or even timely arrive at the majority of his parenting visits, and failed to secure housing. However, the service providers testified regarding the resources that they made available to respondent. The providers testified that as they became aware of changes to waitlists for housing, respondent was apprised. Additionally, respondent was advised that if he provided a release, a worker could assist him further in his attempt to secure housing, but he refused to comply. Additionally, a worker provided respondent with information regarding direct transportation because of his health conditions, but he failed to submit the necessary medical information to secure the service. When presented with this disagreement regarding the agency efforts to assist respondent, the trial court assessed the credibility of the witnesses and found that respondent was not credible. Indeed, the record reflected that respondent refused to take any responsibility for his children coming into care. Additionally, he refused to acknowledge any deficiency in his parenting, but treated his children as if they were property. Under the circumstances, we cannot conclude that the trial court clearly erred in its factual determinations.

### III. STATUTORY GROUNDS

Respondent argues that the trial court erred in terminating his parental rights to his children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We disagree.

"To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). "We review for clear error a trial court's finding of whether a statutory ground for termination has been proven by clear and convincing evidence." *Id.*; see also MCR 3.977(K).

#### A. MCL 712A.19b(3)(c)(i)

The trial court did not err by terminating respondent's parental rights to the children pursuant to MCL 712A.19b(3)(c)(i). A trial court may terminate parental rights pursuant to MCL

712A.19b(3)(c)(i) if 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds that “[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.”

On May 15, 2018, the order of disposition was entered. Thus, more than 182 days had passed when the court terminated respondent’s parental rights on October 7, 2019. The conditions that led to the adjudication included respondent’s lack of housing and an inability to obtain housing, as well as his failure to provide the children’s grandmother with means to care for his children when he left them with her. The record supports the court’s finding that respondent had failed to rectify his lack of housing or inability to provide for the children, and there was no reasonable expectation that he would be able to rectify the conditions in a reasonable time. At the time his rights were terminated, respondent remained homeless and did not avail himself of the resources provided to attempt to secure housing.

Respondent contends that the court failed to consider that respondent would have received over \$1,300 a month from the children’s survivor benefits and over \$400 a month in food assistance. He submitted that those resources, coupled with his social security disability benefits and his fiancé’s income, would have allowed him to obtain housing and provide for the children. The court correctly noted that respondent’s appeal for social security disability benefits had been denied, and there was no evidence to support that respondent would have an ability to obtain housing in a reasonable time. Thus, the court did not err in finding that the conditions that led to the adjudication continued at the time of termination.<sup>1</sup>

#### IV. BEST INTERESTS

Respondent argues that the trial court erred in concluding that it was in the children’s best interests to terminate his parental rights. We disagree.

Once a statutory ground for termination has been established, the trial court must conclude that termination of parental rights is in the child’s best interests before it can terminate parental rights. MCL 712A.19b(5); *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). A trial court’s decision regarding a child’s best interests is also reviewed for clear error. *In re Laster*, 303 Mich App 485, 496; 845 NW2d 540 (2013). “A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court’s special opportunity to observe the witnesses.” *Id.* at 491.

“In deciding whether termination is in the child’s best interests, the court may consider the child’s bond to the parent, the parent’s parenting ability, the child’s need for permanency, stability,

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<sup>1</sup> Because only a single statutory ground needs to be established to support termination of parental rights pursuant to MCL 712A.19b(3), *In re Martin*, 316 Mich App 73, 90; 896 NW2d 452 (2016), we need not address the remaining factors. However, we note that all grounds for termination were satisfied in light of the evidence. Respondent did not acknowledge his parenting deficiencies, and he did not dispute his failure to remedy the deficiencies. However, he faulted the agency for his failure to remedy the problems.

and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App at 41-42. "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 701, 714; 846 NW2d 61 (2014).

The court did not err in concluding that it was in the best interests of the children to terminate respondent's parental rights. Respondent failed to comply with or benefit from his case service plan. He demonstrated a lack of parenting skills, as well as aggressive and abusive behaviors, and at the time his rights were terminated, he had shown no improvement and little effort to improve. The children had been in foster care for a year and a half and needed stability and a permanent living environment. Although the children loved respondent, he was unable to provide a stable environment because he remained homeless and had no income, and there was no evidence to support that he would obtain housing or income in the near future. The children love and were bonded with their grandmother, and she provided the housing, necessities, and permanency the children need.

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Stephen L. Borrello  
/s/ Mark T. Boonstra