

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

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*In re* JOHNSON, Minors.

UNPUBLISHED  
May 21, 2020

No. 349932  
Dickinson Circuit Court  
Family Division  
LC No. 18-000505-NA

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Before: SWARTZLE, P.J., and GLEICHER and M. J. KELLY, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court’s order terminating her parental rights to her minor children. We affirm.

I. BACKGROUND

Respondent-mother and respondent-father both had a substance-abuse problem involving the use of methamphetamine. Respondent-father was in prison on methamphetamine-related charges throughout the entirety of this case. Respondent-mother originally cared for both of her children with the assistance of their grandmothers. Their paternal grandmother provided food, took the elder child to school, and paid many of respondent-mother’s bills related to her housing.

The children’s paternal grandmother decided to stop supporting respondent-mother after an incident in which the latter left the children with the grandmother for an indefinite period of time. The Department of Health and Human Services (DHHS) investigated and determined that respondent-mother did not have a reasonable plan to obtain assistance for housing, and she refused to take her eldest son to school or get him up in time for the school bus. Because of the housing and school issues, the DHHS removed the children from her care.

The trial court conducted an adjudication trial before a jury. Respondent-mother did not appear for trial, and the trial court found her in contempt as a result. The jury found that adjudication was proper on the grounds that respondent-mother refused to provide the children with proper care and support, she was a substantial threat to their well-being, and she failed to provide them with an appropriate home. The DHHS prepared a service plan, and the trial court ordered respondent-mother to not use drugs; to not associate with parolees, probationers, or drug users; and to find employment and obtain proper housing. Respondent-mother was subsequently

arrested on methamphetamine-related charges. While she was out on bond, the circuit court revoked her bond because she incurred several more criminal charges related to methamphetamine. In addition, while she was out on bond, she lived with a roommate in a rental property owned by her boyfriend. Both the roommate and boyfriend were known drug users. The trial court removed the children from respondent-mother's care and placed them with their paternal grandparents.

Eventually, petitioner sought termination of respondent-mother's parental rights. By the time the termination hearing began, respondent-mother had pleaded guilty to a methamphetamine-related charge and was serving a 40-month prison sentence. At the termination hearing, witnesses testified that respondent-mother did not obtain appropriate housing, seek employment, or comply with her service plan. The children's paternal grandfather explained that, although he and his wife were willing to care for the children temporarily, their age and health prevented them from adopting the children. Witnesses also testified that the children needed permanency and that the uncertainty was especially negative for the elder child. During her testimony, respondent-mother discussed the bond she had with her children and her attempts while in prison to find services to improve her parenting skills.

The trial court terminated respondent-mother's parental rights under MCL 712A.19b(3)(c)(i), (g), and (h), and respondent-mother now appeals. Although the trial court also terminated respondent-father's parental rights, he did not appeal the termination. Petitioner chose not to file a brief on appeal.

## II. ANALYSIS

This Court reviews for clear error a trial court's decision that the statutory grounds for termination have been met. *In re Frey*, 297 Mich App 242, 244; 824 NW2d 569 (2012). Termination is appropriate when one or more statutory grounds for termination are proven by clear and convincing evidence. *Id.* "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." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004). "We give deference to the trial court's special opportunity to judge the credibility of the witnesses." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). Before terminating parental rights, the trial court must also determine, by a preponderance of the evidence, that termination is in the best interests of the child. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). This Court reviews for clear error the trial court's determination regarding the child's best interests. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014).

### A. ADJUDICATION

As an initial matter, respondent-mother challenges the adjudication. She does not, however, provide any specific citation or support for her argument that the jury wrongfully based the adjudication on anticipatory neglect. An appellant may not merely announce her position and leave it to this Court to discover and rationalize the basis for her claim. *Johnson v Keller*, 256 Mich App 336, 339-340; 662 NW2d 854 (2003).

Nonetheless, considering the issue on the merits, the jury did not err in finding that adjudication was appropriate. Adjudication requires that the petitioner prove the allegations by a

preponderance of the evidence. *In re Kanjia*, 308 Mich App 660, 663; 866 NW2d 862 (2014). At the adjudication trial, the jury heard testimony that respondent-mother was about to lose her housing, refused to take the elder child to school, and had significant issues with taking care of her children that required assistance from the children's grandmother. The jury's finding that adjudication was appropriate was supported by a preponderance of the evidence.

## B. STATUTORY GROUNDS

Respondent-mother next argues that the trial court erroneously determined that statutory grounds existed to terminate her parental rights. We conclude that the trial court did not err in determining that at least one statutory ground for termination was proven by clear and convincing evidence.

The trial court terminated respondent-mother's parental rights under MCL 712A.19b(3)(c)(i), which provides:

(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.

Although the mere present inability to personally care for one's children due to imprisonment is not sufficient to support termination, *In re Mason*, 486 Mich 142, 160; 782 NW2d 747 (2010), termination is appropriate when the respondent has not accomplished "any meaningful change in the conditions existing at the time of adjudication," *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009). Furthermore, this Court has held that termination of parental rights under this subdivision is appropriate when the parent's parenting skills improved, but the parent continued to expose the child to dangerous individuals. *White*, 303 Mich App at 711-712.

Here, the trial court did not clearly err by determining that the conditions set forth in MCL 712A.19b(3)(c)(i) were met. The conditions that led to adjudication included housing, employment, and drug use. Respondent-mother's housing situation remained unresolved, she remained unemployed, and she continued to use drugs and associate with drug users. Although she was released on bond, the circuit court revoked her bond because she incurred other methamphetamine-related charges. The trial court did not clearly err by finding that this statutory ground was proven by clear and convincing evidence.

Because only one statutory ground must be proven by clear and convincing evidence to terminate a parent's parental rights, we need not address the other grounds on which the trial court terminated respondent-mother's parental rights. See *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011).

### C. BEST-INTEREST FACTORS

To terminate parental rights, a trial court must find that termination is in the child's best interests. See *White*, 303 Mich App 713. The trial court must consider the child's placement with a relative, if it exists. *In re Olive/Metts* 297 Mich App 35, 43; 823 NW2d 144 (2012). The trial court may consider factors such as the child's bond with the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of the foster home over the parent's home. *Id.* The trial court may also consider the parent's past history of domestic violence, the parent's compliance with the service plan, the parent's visitation with the child, the child's well-being in care, and the possibility of adoption. *Id.* at 714. When there is more than one child involved, the best interests of each child must be considered individually. *Olive/Metts*, 297 Mich App at 42. There is no requirement, however, that the trial court must make individualized factual findings when there is not a significant difference between the children. *White*, 303 Mich App at 715-716.

The trial court did not clearly err by determining that termination was in the children's best interests despite their bond with respondent-mother and their placement with relatives. Although the trial court properly considered these factors, the evidence also indicated that the children needed permanency and finality. The trial court heard testimony that the children were adoptable. Further, the trial court could properly consider respondent-mother's failure to comply with her service plan when it determined whether termination was in the children's best interests. Finally, although the children's paternal grandparents were willing to continue to care for the children, they sought a long-term placement and they were concerned about their ability to continue caring for the children. The trial court did not clearly err by determining that termination of respondent-mother's parental rights was in the children's best interests.

Affirmed.

/s/ Brock A. Swartzle  
/s/ Elizabeth L. Gleicher  
/s/ Michael J. Kelly