STATE OF MICHIGAN

COURT OF APPEALS

In re WILLIAMS, Minors.

UNPUBLISHED
June 11, 2020

Nos. 350943, 350944
Kalamazoo Circuit Court
Family Division
LC No. 2017-000328-NA

Before: GADOLA, P.J., and CAVANAGH and M. J. KELLY, JJ.

PER CURIAM.

In these consolidated appeals, respondent-mother, S. Lee, and respondent-father, D. Williams, appeal as of right the trial court's order terminating their parental rights to the minor children, DLW and DW, under MCL 712A.19b(3)(a)(*ii*), (c)(*i*), (c)(*ii*), (g), and (j). Finding no errors warranting reversal in either appeal, we affirm.

Respondents, both in their mid-twenties, had been in a relationship for several years. In November 2014, Lee gave birth to their son, DLW. Approximately two years later, DW was born. Both respondents have been diagnosed with mild intellectual disabilities, which were known to petitioner, the Department of Health and Human Services (DHHS), from the outset of this case.

In July 2017, the family came to the attention of Child Protective Services (CPS), when DW, then nine months old, was found to be severally malnourished and underweight. Initially, he was permitted to remain in respondents' custody. However, the court removed DW in September 2017 when, even with supportive services, the infant continued to lose weight while in respondents' care. Approximately one month later, in October 2017, the court also removed DLW after the toddler was found wandering unsupervised in a large park. Although the court was concerned about DW's weight and nutritional issues, it found that the children came within the court's jurisdiction because of respondents' improper supervision of DLW in October 2017.

After the initial dispositional hearing, the court ordered respondents to comply with and benefit from a treatment plan designed to improve their parenting skills and remove the barriers to reunification. Over the course of the proceedings, petitioner attempted to engage respondents in services. However, respondents failed to make sufficient progress with their treatment plan. Consequently, in January 2019, petitioner filed a supplemental petition seeking termination of respondents' parental rights. At the conclusion of a four-day termination hearing, held between

June and September 2019, the court first found that petitioner had made reasonable efforts at reunification considering respondents' cognitive disabilities. The court then found statutory grounds to terminate respondents' parental rights under MCL 712A.19b(3)(a)(*ii*), (c)(*i*), (c)(*ii*), (g), and (j). Finally, the court concluded that termination of respondents' parental rights was in the children's bests interests. These appeals followed.

For their first issue on appeal, both respondents argue that petitioner did not make reasonable efforts at reunification because it failed to accommodate their cognitive impairments. We disagree. This Court generally reviews a trial court's finding that "reasonable efforts were made to preserve and reunify the family" for clear error. *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been committed. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Before a court may contemplate termination of a parent's parental rights, the petitioner must make reasonable efforts to reunite the family. MCL 712A.19a(2). "The adequacy of the [DHHS]'s efforts to provide services may bear on whether there is sufficient evidence to terminate a parent's rights." *In re Rood*, 483 Mich 73, 89; 763 NW2d 587 (2009). In this case, respondents do not simply argue that DHHS failed to make the necessary referrals; their argument encompasses the broader proposition that the manner in which their cases were serviced did not accommodate their known cognitive disabilities. In *In re Terry*, 240 Mich App 14, 24-25; 610 NW2d 563 (2000), this Court noted that the Americans with Disabilities Act (ADA), 42 USC 12101 *et seq*., does not provide a defense to proceedings to terminate parental rights. However, the ADA does require petitioner to reasonably accommodate a disabled parent when providing services directed at removing the barriers to reunification.

In *In re Hicks/Brown*, 500 Mich 79; 893 NW2d 637 (2017), our Supreme Court considered whether the DHHS made reasonable efforts to reunify an intellectually disabled parent with her children. The Court considered obligations that arise under both the ADA and the Michigan Probate Code, MCL 712A.18f(3)(d). Under the Probate Code, "the Department has an affirmative duty to make reasonable efforts to reunify a family before seeking termination of parental rights." *Id.* at 85. Our Supreme Court also noted that the ADA requires that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." *Id.* at 86 (citation omitted.) The Court then held that the DHHS neglects its duty under the ADA to reasonably accommodate a disability when it fails to implement reasonable modifications to services or programs offered to a disabled parent. *Id*. Similarly, the Court stated that "efforts at reunification cannot be reasonable under the Probate Code if the Department has failed to modify its standard procedures in ways that are reasonably necessary to accommodate a disability under the ADA." *Id*. A review of the record demonstrates that, contrary to respondents' assertions, DHHS referred respondents to appropriate services and then made extraordinary modifications to reasonably accommodate respondents' impairments.

Respondents, but Lee in particular, argue that DHHS did not refer the parents to the necessary services. Specifically, respondents argue that they were not referred to services that were recommended in the psychological evaluation. This representation is not supported by the record. The psychologist who evaluated respondents recommended that Lee be referred for a

psychopharmacological consultation, lifestyle training, and intensive parenting training. The clinician specifically opined that "cognitive behavioral/dialectical behavioral therapy" would be helpful. Although Williams never completed his psychological evaluation, the clinician preliminarily recommended that Williams receive lifestyle training and therapy. Lee claims, in particular, that she was never referred, until July 2019, for dialectical behavioral therapy.

Multiple referrals were made for parenting classes, housing, and employment assistance. In addition, with respect to the mental health and cognitive aspects of the recommendations, respondents were referred to Community Mental Health (CMH) on multiple occasions. The caseworker testified that if respondents had cooperated with the referrals, a broad variety of services would have been available to them. The testimony of caseworkers further confirmed that CMH had the ability and resources to refer respondents for treatment consistent with the recommendations in the psychological evaluations. Unfortunately, respondents repeatedly failed to cooperate. They indicated that they did not like their assigned CMH coordinators and when these individuals were replaced, respondents found fault with their replacements. The record does not support respondents' position that petitioner failed to make the necessary and required referrals for appropriate services.

Contrary to respondents' representations, respondents were offered and did participate in hands-on services. The record indicates that even before the court became involved, Lee was receiving individualized parenting education from Catholic Charities. Beginning in February 2016, a family support specialist came to respondents' home and provided hands-on parenting instruction. When the matter came to the court's attention in July 2017, respondents were already receiving hands-on assistance from Families First and the Early Intervention Program. These programs met with respondents wherever they happened to be living. Thus, from the start, respondents were provided with intensive individualize assistance.

Further, the manner in which petitioner serviced this family accommodated their cognitive impairments. At the outset, we note that while respondents participated in special education classes, they both graduated from high school. Both respondents appeared to be literate because they had demonstrated the ability to communicate with the caseworker through text messaging. In addition, Lee's counsel frequently referenced on the record that Lee appeared to be quite competent and that he had not encountered any difficulty understanding her or being understood. It is undisputed, however, that respondents were cognitively impaired and that petitioner was aware of respondents' limitations from the beginning of the case.

The trial court did not clearly err when it found that petitioner accommodated respondents' cognitive disabilities. Petitioner did not simply hand respondents a list of resources with telephone numbers and expect respondents to follow through on the referrals. Instead, the caseworkers diligently guided respondents in a manner that would provide them with the tools they needed to remove the barriers to reunification. In many instances, they crafted creative and innovative methods to assist these parents. Unfortunately, respondents did not take advantage of the assistance that was offered. A respondent has the responsibility to not only cooperate and participate in services, she must also benefit from them. *In re TK*, 306 Mich App 698, 711; 859 NW2d 208 (2014).

In every facet of the treatment plan, additional efforts were made to assist respondents. The initial and most critical issue was teaching respondents to properly feed DW through, initially an NG tube, and later, a G-tube. Proper use of these feeding tubes was demonstrated by hospital personnel while DW was hospitalized. Then, dieticians, caseworkers, and even the foster mother demonstrated proper feeding techniques. A video was created and shown to respondents demonstrating the proper use of DW's feeding tube. It was played several times for respondents during every parenting time. In addition, YouTube links were provided to reinforce the hands-on demonstration. In addition to these very visual and hands-on efforts, respondents were provided with written information regarding feeding tube procedures.

Respondents were also provided an inordinate amount of assistance with improving their parenting skills and their bond with the children. Because there were no foster homes equipped to care for a medically fragile child in the immediate Kalamazoo area, DW was placed early on in a home in Holland.[1] Eventually, the siblings were placed together in that area. In an effort to assist respondents because of the distance involved, parenting time was moved to a location halfway between Holland and Kalamazoo. Respondents were not required to piece together an elaborate transportation method to attend visits with their children. Instead, the caseworker drove respondents to and from parenting time each week. To further assist respondents, the caseworker would stop at a fast food restaurant to permit respondents to purchase food for their children to consume during parenting time. Again, respondents were not required to navigate the logistics of traveling to parenting time and providing a meal for their children.

Because of their inconsistency, and to ensure that the children did not needlessly travel if respondents were a no-show, respondents were required to text 24 hours in advance to attend parenting time. In an effort to assist respondents in complying with this requirement, the caseworker offered to put an alarm on respondents' phone that would alert them to the necessity of contacting the worker. Respondents refused this offer.

Respondents were offered and participated in parenting classes. Respondents satisfied the attendance requirements, but they were never able to pass the academic portion of the program. They refused additional classes that were offered to them later in the case. In an effort to further assist respondents, the instructor met with respondents after class, essentially one-on-one, to review the materials and answer any questions they might have. The caseworkers also reviewed the parenting materials weekly with respondents to reinforce what had been taught.

During the entire two years the children were in care, respondents lacked suitable housing. However, there were multiple agencies, entities, and individuals assisting them in this quest. The caseworkers assigned to this family in the year preceding termination did not simply hand respondent a list of available rental units. Instead, they printed out applications and assisted in completing those applications. One worker not only drove Lee to a housing program, she attended the program with her. One worker testified that she made telephone calls on respondents' behalf.

[1] Williams contends that petitioner made no effort to find a foster home that could care for a medically fragile child in the Kalamazoo area. This assertion is unsupported by the record. Efforts were made to find an appropriate foster home closer to respondents.

Despite these efforts, respondents were never able to demonstrate that they had housing suitable for two young boys.

Late in the case, when Lee finally agreed to participate in counseling, her caseworker went to additional efforts to ensure that Lee attended the scheduled appointments. At the time of the July 30, 2019 termination hearing, Lee had attended the intake and one therapy session. Her caseworker, Jacklyn Jameson drove Lee to both meetings and actually attended the intake with her. Jameson wanted to ensure that Lee attend because she had professed that the only reason she was going was because she was told to go.

The trial court was particularly impressed with the efforts that were made in the six to nine months preceding the final termination hearing. In early 2019, the then-caseworker began scheduling weekly, instead of monthly, meetings with respondents. Lee's attendance was fairly consistent. Williams's was not. The purpose of these meetings was to discuss services and answer any questions respondents might have. In early 2019, the caseworker prepared a binder for each respondent that was designed to be an organizational tool to help them keep track of important information, including court dates, parenting time, and community resources related to food, shelter, and clothing. The subsequent caseworker continued these practices. She prepared updated calendars each week to be added to the binder. While this binder could have been a useful tool, respondents, despite being asked, failed to bring their binders to the meetings.

The record demonstrates that respondents were offered a multitude of services to remove the barriers to reunification. Moreover, and more importantly, petitioner modified its practices to provide respondents with the best opportunity to benefit from the services offered. Petitioner did not fail to accommodate respondents' disabilities. Instead respondents failed to take advantage of the services offered. Accordingly, the trial court did not err when it found that reasonable efforts were made to preserve the family and reunify respondents with their children.

Next, Williams asserts that he was denied due process when the trial court entered an interim dispositional order in his absence. Due process in civil cases generally requires notice of the nature of the proceedings, and an opportunity to be heard in a meaningful time and manner, by an impartial decisionmaker. *In re Juvenile Commitment Costs*, 240 Mich App 420, 440; 613 NW2d 348 (2000). Williams never argued below that the trial court's entry of the interim dispositional order in his absence violated his right to due process. Therefore, this issue is unpreserved and Williams must show that plain error occurred affecting his substantial rights. See *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008).

Williams' discussion of this issue is exceedingly cursory and conclusory. Moreover, he has not accurately represented the events that transpired. On November 21, 2017, the date scheduled for the adjudication trial, Williams elected to enter a no-contest plea to the allegation that he left DLW unsupervised in the park. During the plea process, the court advised Williams that in approximately a month, the court would hold a dispositional hearing to decide what would need to be done to work toward reunification. The court explained that the goals would be set forth in a treatment plan. Thereafter, the court accepted the plea and then found that, based on Williams's conduct, the children came within the court's jurisdiction. The court noted that because Lee intended to contest jurisdiction, the matter would continue for her trial. However, the court asked Williams and his attorney to remain until the conclusion of Lee's matter so that an interim

dispositional order could be addressed. Williams's counsel indicated that they would comply with this request, but with the court's permission, they left the courtroom. Shortly thereafter, Williams and his attorney returned to the courtroom to advise the court that Williams could not stay any longer. Williams's counsel requested that Williams be excused by the court. The court agreed, and then indicated that it was going to "order that you follow the caseworker's recommendation." The court further clarified that Williams was not going to be asked to do anything out of the ordinary, just likely parenting classes and "some basics and stuff." Williams replied, "Okay, your Honor." As he was leaving the courtroom, the court advised Williams to contact his caseworker on the following Monday. Thereafter, Lee's adjudication trial resumed.

Lee's trial could not be concluded on November 21, 2017. Therefore, her trial resumed on December 14, 2017. At that time, Williams's attorney was present, but Williams was not. Indeed, Lee represented that the foster care worker had told Williams that his presence was unnecessary. The trial court agreed that it was not necessary for Williams to attend Lee's adjudication. Then, because Williams's attorney was present and acquiesced in the procedure, the court indicated that it could do Williams's interim disposition right then. At that point, the court took brief testimony from the caseworker, who testified that she would be requesting that Williams continue with services. She further recommended that parenting time be supervised or unsupervised at the agency's discretion. The court accepted the worker's recommendation. It also addressed any suggestion that Williams had not received notice of the hearing on the interim disposition. The court noted that Williams had left the November 21, 2017 hearing early, and that he was only being asked to continue existing services until full disposition. Williams's attorney also noted that the dispositional hearing was scheduled for December 26, 2017, and the court confirmed that Williams had received notice of that hearing. Thereafter, Lee's adjudication hearing resumed and concluded that day. Williams's initial dispositional hearing went forward on December 26, 2017. However, Williams was not present because he had relocated to Saginaw.

Considering the foregoing record, Williams has waived his right to claim error. During the November 21, 2017 hearing, Williams clearly agreed that the court could enter the interim dispositional order in his absence. Williams and his attorney were advised of the court's intentions. They both agreed to it and Williams then voluntarily left the court. It is of no moment that the court ultimately entered the interim order at the conclusion of the December 14, 2017 hearing, as opposed to on November 21, 2017. Because Williams agreed to the court proceeding in the manner in which it did, he cannot now claim error. "A party may not take a position in the trial court and subsequently seek redress in an appellate court that is based on a position contrary to that taken in the trial court." *Holmes v Holmes*, 281 Mich App 575, 587-588; 760 NW2d 300 (2008) (quotation marks and citation omitted). In other words, a "[r]espondent may not assign as error on appeal something that she deemed proper in the lower court because allowing her to do so would permit respondent to harbor error as an appellate parachute." *In re Hudson*, 294 Mich App 261, 264; 817 NW 2d 115 (2011).

Further, Williams has not shown how his absence from the December 14, 2017 hearing prejudiced him or affected the outcome of the proceedings. The court entered the interim order consistent with the manner in which it had informed Williams that it intended to do so. Williams was only ordered to continue existing services until full disposition two weeks later. Incidentally, Williams was not present at the December 26, 2017 dispositional hearing because he had relocated to Saginaw. Williams has not explained how the court's interim order would have been any

different had he been present, let alone, how the outcome of the entire termination proceeding would have been different had he been present at the December 14, 2017 hearing. Further, Williams was represented by counsel at the December 14, 2017 hearing, thus ensuring that his interests were fully protected. Under these circumstances, even if the issue was not waived, the trial court did commit plain error requiring reversal by entering an interim dispositional order in Williams's absence.

Next, Lee challenges the trial court's finding that there existed clear and convincing evidence to terminate her parental rights. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been established by clear and convincing evidence. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(K). A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been committed. *In re Olive/Metts*, 297 Mich App at 41 (citation omitted).

The trial court terminated Lee's parental rights pursuant to MCL 712A.19b(3)(a)(*ii*), (c)(*i*), (c)(*ii*), (g), and (j). After reviewing the record, we agree that there did not exist clear and convincing evidence to terminate Lee's parental rights under § 19b(3)(a)(*ii*). However, because the court did not clearly err in terminating Lee's parental rights to the children under the remaining statutory grounds, the error was harmless. See *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

MCL 712A.19b(3)(a)(*ii*) permits termination of parental rights when "[t]he child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period." The evidence established that Lee moved to Saginaw in November 2017 and did not return to the Kalamazoo area until May 2018. Although Lee testified that she and Williams relocated to Saginaw to be near family support, the court found more credible her admission that she left the Kalamazoo area to evade an arrest warrant. While Lee was in Saginaw, she did not visit her children or provide for their care. However, petitioner admits that Lee "maintained contact with the caseworker(s) and her attorney continued to advocate on her behalf while she was in Saginaw." Further, after Lee returned in May 2018, she resumed parenting time, increased her contact with the caseworker, attended most hearings, and to a minimal degree participated in some services. Of particular note, Lee participated in her psychological evaluation in July 2017, she met with her caseworker, and she attended parenting time. There is no indication that while in Saginaw Lee intended to stop pursuing reunification with her children. Considering the foregoing, we conclude that there was not clear and convincing evidence that Lee had deserted the children for 91 days or more days. Accordingly, the trial court erred when it terminated Lee's parental rights under § 19b(3)(a)(*ii*). However, "[o]nly one statutory ground need be established by clear and convincing evidence to terminate a respondent's parental rights[.]" *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). As explained below, the trial court properly found clear and convincing evidence to support termination of Lee's parental rights under MCL 712A.19b(3)(c)(*i*), (c)(*ii*), (g), and (j). Therefore, any error in relying on § 19b(3)(a)(*ii*) was harmless.

The additional statutory grounds on which the court relied to terminate Lee's parental rights, MCL 712A.19b(3)(c)(*i*), (c)(*ii*), (g), and (j), permit termination of parental rights 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.

(*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.

* * *

(g) The parent, although, in the court's discretion, financially able to do so, 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.

* * *

(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.

The family first came to the attention of CPS in July 2017 after DW was found to be malnourished. Although the court initially permitted DW to remain in Lee's care, after he continued to lose weight even with supportive services in place, the court removed DW in September 2017. One month later, DLW was removed from Lee's care after he was found unsupervised in a large park. Although the court found DW's feeding and nutrition issues alarming, the failure to supervise DLW ultimately led the court to exercise jurisdiction over the children.

The trial court ordered Lee to comply with a treatment plan designed to improve her parenting skills, and thereby remove the barriers to reunification. Services offered to Lee included parenting classes, parenting time, a psychological evaluation, individual counseling, transportation assistance, referrals to CMH, housing assistance, and case-management services. Despite being offered a multitude of services, with accommodations to address her cognitive impairments, Lee was still unable to demonstrate that she could properly parent her children, one of whom was medically fragile, or that they would be safe in her care.

During the two years that the children were in care, Lee was provided services designed to improve her parenting skills. In addition, her ability to address DW's medical and nutritional needs, although not a condition that led to the children's adjudication, became a significant issue

in the case. When the termination hearing began in June 2019, a nurse practitioner explained that DW was still dependent on the G-tube, which provided a significant amount of his daily nutrition. She further explained that a child with a G-tube required close monitoring. Through speech and feeding therapy, DW was also taking some food by mouth. However, he was still at great risk of choking or aspirating his food. Consequently, the nurse explained that DW required close supervision when eating.

During the two years that the children were in care, Lee was provided a multitude of services to assist in learning to properly feed DW through his G-tube. While Lee's proficiency with the feeding tube improved, at the time her parental rights were terminated, she still required assistance and correction when feeding DW.

The use of the feeding tube was not the only issue with which Lee struggled relative to DW's nutritional issues. When DW improved to the point where he could take some food by mouth, it became necessary to track what he was eating during parenting time. This was explained to Lee, but she failed to properly document his caloric intake or even simply write down what foods he was eating. In addition, DW's complex medical conditions would require continued medical monitoring. Yet at the time of termination, Lee was unable to even arrive at court hearings timely. There was overwhelming evidence that despite intensive services, Lee's ability to properly and safely parent her children had not improved.

Lee also had not adequately addressed her emotional issues. The results of a psychological evaluation recommended that Lee participate in therapy. Lee was provided several referrals to CMH, but she failed to comply with these services. Lee simply was unwilling to pursue counseling. At the termination hearing in July 2019, Lee finally agreed to attend therapy at Joy Unlimited Counseling. The caseworker drove Lee to both her intake appointment and her first counseling session. Lee had been resistant to treatment, and the worker wanted to ensure that she attend the therapy. Indeed, Lee admitted that the only reason she had finally agreed to participate in counseling was because "she was told to go." On the last day of the termination hearing, in September 2019, Lee had attended six therapy sessions. However, she refused to sign a release, so it was impossible to determine if she was making any progress or benefiting from the therapy.

Housing also remained a barrier to reunification. During the two years the children were in care, respondents lacked suitable housing. Multiple agencies, entities, and individuals attempted to assist Lee with securing suitable housing. However, she continued to live in a home that she readily and consistently admitted was not suitable for the children. At the termination hearing, Lee claimed that her house was now appropriate for her children. The home was large enough for two children and she had apparently found bunk beds for the boys. Lee also reassured the court that the refrigerator worked, there was food in the house, and the home had electricity and running water. Despite Lee's testimony, she continued to deny the caseworker access to the home. Consequently, it was impossible to confirm whether Lee had finally obtained suitable housing for her children.

On the last day of the termination hearing, the caseworker testified that Lee was no longer communicating regularly with the worker. Lee also had stopped attending the weekly meetings with the worker. When the caseworker asked Lee why she had missed their scheduled appointment, Lee simply replied that she "was busy."

The evidence demonstrated that at the time of termination, Lee had yet to address, in a meaningful way, any of the conditions that caused her children to come into care. "A parent, whether disabled or not, must demonstrate that she can meet [a child's] basic needs before [the child] will be returned to her care." *In re Terry*, 240 Mich App at 28. "If a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent." *Id*. (quotation marks and citation omitted). Furthermore, Lee did not successfully participate in or complete any of the services. A parent's failure to comply with a court-ordered treatment plan is indicative of neglect and evidence that return of the child to the parent may cause a substantial risk of harm to the child's life, physical health, or mental well-being. *In re Trejo*, 462 Mich 341, 346 n 3; 612 NW2d 407 (2000); *In re BZ*, 264 Mich App 286, 300; 690 NW2d 505 (2004). The evidence also demonstrated that Lee continued to struggle to safely and proficiently meet DW's medical and nutritional needs.

Additionally, there was clear and convincing evidence that Lee would be unable to remove the barriers to reunification anytime soon. The children had been in care for approximately two years. Lee was in no better position to demonstrate that she could parent her children than when they were removed. Further, Lee's incredulous testimony at the termination hearing—denying that she had been provided any assistance at all and claiming that her learning disability did not affect her parenting—demonstrates that she had not gained any insight into the reasons why her children were removed from her care. Thus, it is unlikely that Lee will be able to successfully address the issues that precipitated the removal of her children. Accordingly, the trial court did not clearly err when it found clear and convincing evidence to terminate Lee's parental rights pursuant to MCL 712A.19b(3)(c)(*i*), (c)(*ii*), (g), and (j).

Finally, Lee argues that the trial court erred when it found that termination of her parental rights was in the children's best interests. We disagree. We review for clear error a trial court's finding that termination of parental rights is in a child's best interests. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). The court may consider several factors when deciding if termination of parental rights is in a child's best interests, including the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. *In re Olive/Metts*, 297 Mich App at 42. The court may also consider psychological evaluations, the child's age, continued involvement in domestic violence, and a parent's history. *In re Jones*, 286 Mich App at 131. Whether termination of parental rights is in a child's best interests must be proven by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013).

The trial court did not clearly err when it found, by a preponderance of the evidence, that termination of Lee's parental rights was in the children's best interests. Children require a parent who can provide them with a safe, stable, and permanent home. The evidence overwhelmingly established that Lee lacked the skills necessary to safely parent her children. Lee asserts that termination was not in the children's best interests because a bond existed between her and the children. The existence of that bond is questionable. When the children arrived at parenting time,

DLW would frequently claim that his stomach hurt and he would then seek reassurance multiple times that the foster mother would be back to pick him up. He also had become aggressive after parenting time. Recently, DLW had started therapy. Clearly, the lack of permanency and stability had started to take its toll on the children. While Lee may have a bond with her children, this factor did not outweigh the children's need for a safe and stable home.

Furthermore, the children had special medical needs that Lee did not fully appreciate or understand, or show that she was capable of providing the care required. By contrast, the children were thriving in their foster care placement and the foster parents had expressed a willingness to adopt the children. When balancing the best-interest factors, a court may consider the advantages of a foster home over the parent's home and the possibility of adoption. *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014); *In re Olive/Metts*, 297 Mich App at 41-42. It is clearly apparent that DW and DLW were both placed in a stable home where they were progressing and that this progress could continue because the foster parents had indicated a willingness to provide long-term care. Accordingly, the trial court did not clearly err when it found that termination of Lee's parental rights was in the children's best interests.

Affirmed.

/s/ Michael F. Gadola
/s/ Mark J. Cavanagh
/s/ Michael J. Kelly