

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

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UNPUBLISHED  
April 19, 2012

In the Matter of J.M. HARTLINE, Minor.

No. 306482  
Livingston Circuit Court  
Family Division  
LC No. 2007-012156-NA

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Before: MARKEY, P.J., and MURRAY and SHAPIRO, JJ.

PER CURIAM.

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

The child in this case was removed from the care of respondent in December 2007 when the child was three years old. While intoxicated, respondent engaged in a physical fight with relatives, after which the child was left with a black eye and a missing tooth. Later, respondent received numerous services including counseling, parenting and anger management classes. The child was returned to respondent's care in October 2008.

In May 2009, petitioner investigated an allegation that respondent was physically abusing and neglecting the child and also abusing substances. In August 2009, petitioner again investigated an allegation that respondent was intoxicated, and the child was outside unsupervised. Thereafter, Families First provided services for respondent and the child. In September 2009, neighbors reported that respondent had taken medication that had resulted in her hospitalization and that she was unable to care for the child. In April 2010, petitioner again investigated allegations of abuse and neglect of the child by respondent and discovered that respondent was intoxicated and had attempted suicide. The child had swelling in his right eye and a scratch and was again removed from respondent's home and placed in foster care.

Respondent thereafter participated in some of the services suggested by petitioner, including psychological evaluation, therapy, parenting classes, and visitation with the child. Respondent did not consistently comply with all services, however, such as drug testing and participation in Alcoholic Anonymous, for the apparent reason that she did not believe that she had any substance abuse issues. In March 2011, respondent was involved in a car accident while intoxicated. In June 2011, shortly before the hearing to terminate her parental rights, respondent tested positive for alcohol, thereby violating her probation and resulting in five weeks of incarceration. At the termination hearing, respondent's therapist testified that respondent was

alcohol and opiate addicted and only recently had begun to admit her addiction. At the conclusion of the termination hearing, the trial court terminated respondent's parental rights.

Respondent contends that the trial court erred in terminating her parental rights under subsections (3)(c)(i), (g), and (j). We disagree. To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been demonstrated by clear and convincing evidence. *In re Fried*, 266 Mich App 535, 540-541; 702 NW2d 192 (2005). In this case, a review of the record supports the trial court's finding that termination of respondent's parental rights was warranted under subsection (3)(c)(i) because the conditions that led to adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the age of the child. At the time of adjudication respondent lacked sobriety and emotional stability. Though respondent participated in some services, her failure to benefit from the services resulted in these conditions remaining unchanged at the time of the termination hearing.

The record similarly supports the trial court's finding under subsection (3)(g) that respondent failed to provide proper care and custody for the child and that there was no reasonable expectation that she would be able to do so within a reasonable time considering the age of the child. Respondent's failure to benefit from services resulted in her lacking the requisite sobriety to provide for and parent the child and indicated that she was unlikely to acquire such skills within a reasonable time, if ever. Similarly, the record supports the trial court's determination that termination was warranted under subsection (3)(j), finding that there was a reasonable likelihood based on the conduct or capacity of respondent that the child would be harmed if placed in respondent's custody.

We also conclude that the trial court did not clearly err in determining that termination of respondent's parental rights was in the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). We reject respondent's argument that the trial court should not have considered the positive environment of the child's foster home when considering the best interests of the child. While it is inappropriate to consider the foster placement when determining whether there is a statutory basis for termination, such a consideration is appropriate when considering the best interests of the child. *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009). We also reject respondent's argument that the trial court failed to consider the negative effect that termination would have on the child, given that the child loved his mother. Contrary to respondent's argument, the trial court specifically considered the testimony that the child loves his mother and that she loves him, but also considered that the child could not be expected to wait in foster care indefinitely in hopes that respondent might eventually confront her substance addiction.

We affirm.

/s/ Jane E. Markey  
/s/ Christopher M. Murray  
/s/ Douglas B. Shapiro