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# STATE OF MICHIGAN

# COURT OF APPEALS

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*In re* BREMER, Minors.

No. 377836
Muskegon Circuit Court
Family Division
LC No. 2022-000003-NA

Before: WALLACE, P.J., and CAMERON and KOROBKIN, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating his parental rights to TB and KB under MCL 712A.19b(3)(c)(*i*) (conditions of adjudication continue to exist), (c)(*ii*) (failure to rectify other conditions), (g) (failure to provide proper care and custody), (j) (reasonable likelihood that children will be harmed if returned to parent), and (m) (parent convicted of enumerated offense and continuing the parent-child relationship would be harmful to children). On appeal, respondent contends that the trial court erred by finding that petitioner, the Department of Health and Human Services, made reasonable efforts to reunify him with TB and KB, that there were statutory grounds to terminate his parental rights, and that termination was in the children's best interests. For the reasons set forth in this opinion, we disagree with respondent's arguments and therefore affirm.

## I. BACKGROUND AND FACTS

Following KB's birth in December 2021 and the children's mother's death soon after, petitioner petitioned to remove KB and one-year-old TB from respondent's care on the basis that respondent had a prior conviction for second-degree criminal sexual conduct (CSC) and that his parental rights to three older children had been previously terminated. In January 2022, the trial court authorized the petition and ordered that the children be placed with respondent's brother and sister-in-law. At the dispositional hearing in February 2022, petitioner reported that respondent's adjudicated barriers were his CSC conviction and the prior terminations of his parental rights, and that respondent's nonadjudicated barriers were his parenting skills, housing, income, and intellectual capacity.

Throughout the remainder of the trial-court proceedings, TB and KB remained in their relative placement and respondent was permitted only supervised visits. Respondent also engaged in various services to address his barriers to reunification. Respondent obtained appropriate housing in March 2023 and was consistently employed. He further underwent numerous assessments, including a parental capacity evaluation, and received counseling. And services like supportive visitation, a behavioral specialist program, and virtual parenting courses, among others, were provided to address respondent's parenting-skills issues. Service providers had persistent concerns, however, that respondent's parenting skills did not sufficiently improve to enable unsupervised visits or reunification.

In January 2025, petitioner filed a petition to terminate respondent's parental rights, asserting that respondent did not sufficiently benefit from the services provided and that termination was in the children's best interests. Following respondent's termination trial later that year, the trial court found in October 2025 that reasonable efforts were made to reunify respondent with TB and KB, that there were statutory grounds for termination under MCL 712A.19b(3)(c)(*i*), (c)(*ii*), (g), (j), and (m), and that termination was in the children's best interests. The trial court accordingly ordered that respondent's parental rights be terminated.

Respondent now appeals.

## II. STANDARD OF REVIEW

This Court reviews for clear error whether petitioner made reasonable efforts to reunify a respondent with his children. *In re Atchley*, 341 Mich App 332, 338; 990 NW2d 685 (2022). We likewise review a "trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests" for clear error. *In re Mota*, 334 Mich App 300, 320; 964 NW2d 881 (2020) (quotation marks and citation omitted). "Clear error exists when some evidence supports a finding, but a review of the entire record leaves the reviewing court with the definite and firm conviction that the lower court made a mistake." *In re Baham*, 331 Mich App 737, 751; 954 NW2d 529 (2020) (quotation marks and citation omitted). In our review, this Court gives regard "to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Mota*, 334 Mich App at 320 (quotation marks and citation omitted).

## III. ANALYSIS

### A. REASONABLE EFFORTS

Respondent first contends that petitioner failed to make reasonable efforts to reunify him with TB and KB by insufficiently accommodating his learning disability in the services petitioner provided him. We disagree.

Absent aggravating circumstances not present in this case, petitioner has a statutory duty to make "[r]easonable efforts to reunify the child[ren] and family . . . ." MCL 712A.19a(2). This duty in turn requires petitioner to "create a service plan outlining the steps that both it and the parent will take to rectify the issues that led to court involvement and to achieve reunification." *In re Hicks/Brown*, 500 Mich 79, 85-86; 893 NW2d 637 (2017). Petitioner is also obligated to

fulfill "its duty under the [Americans with Disabilities Act, 42 USC 12101 *et seq*.,] to reasonably accommodate a disability" by making "reasonable modifications to the services or programs offered to a disabled parent[.]" *Id* at 86. And in addition to petitioner's "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), and to "demonstrate that they sufficiently benefited from the services provided[,]" *In re Atchley*, 341 Mich App at 339 (quotation marks and citation omitted).

Although other barriers initially impeded reunification, a review of the record makes clear that respondent's parenting skills were the primary hurdle to reunification over the approximately three years of services provided. Respondent reported in the trial-court proceedings that he had a learning disability that created difficulties with reading and understanding written documents, and he requested that petitioner make accommodations in its services, including specifically by providing one-on-one aid. On appeal, respondent argues that petitioner failed to provide him "the one-on-one parenting education he required" as a reasonable accommodation for his disability.[1]

Contrary to respondent's contention, however, the record shows that respondent was given access to a plethora of services aimed at helping him overcome the barrier his parenting skills posed to reunification, many of which were provided to respondent one-on-one. For example, respondent participated in a one-on-one infant mental-health program for TB and respondent, one-on-one in-home parent coaching, and a one-on-one supportive-visitation program. Moreover, a caseworker testified that she read various written documents to respondent and gave him an opportunity to ask any questions he had, that she had monthly meetings with respondent to review his service plans in which they would "go step by step through each barrier," and that respondent was referred to virtual parenting courses in response to a report that he benefited more from videos than other modalities. Likewise, an in-home family services worker explained that she reviewed various handouts with respondent and provided him videos on safety and parenting skills.

Furthermore, when challenging services provided by petitioner, "a respondent must establish that he . . . would have fared better if other services had been offered." *In re Sanborn*, 337 Mich App 252, 266; 976 NW2d 44 (2021). As described, petitioner offered respondent numerous services to improve his parenting skills, and many of those services were provided in a specialized manner to accommodate respondent's learning disability. Given that respondent fails to explain what made the one-on-one services he was provided insufficient and to state what other

[1] We assume without deciding that respondent had a disability that required petitioner to provide him with accommodations. The trial court concluded that petitioner was not required to make reasonable modifications to the services it offered respondent because there was a lack of evidence that respondent has a "disability" as that term is defined under the ADA, and respondent challenges that finding on appeal. The trial court proceeded to find in the alternative, however, that petitioner reasonably accommodated respondent's reported disability. Because we find no clear error in the trial court's finding that petitioner provided reasonable accommodations in the services it offered respondent in light of his reported disability, we need not decide whether the trial court erred in not finding that respondent had a disability that required such accommodations.

accommodating services he believes should have been additionally provided, "we are left to speculate what other services [petitioner] *could* have offered." *Id.*

Thus, because respondent has not shown that the services petitioner provided insufficiently accommodated his learning disability nor explained what other accommodating services could have been offered, we find no clear error in the trial court's determination that petitioner made reasonable efforts to reunify respondent with TB and KB. See *In re Atchley*, 341 Mich App at 338.

## B. STATUTORY GROUNDS

Respondent next contends that the trial court erred by finding statutory grounds for termination. We disagree.

A trial court "may terminate a respondent's parental rights if one or more of the statutory grounds for termination listed in MCL 712A.19b(3) have been proven by clear and convincing evidence." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). "If the trial court did not clearly err by finding one statutory ground existed, then that one ground is sufficient to affirm the termination of respondent's parental rights." *In re Sanborn*, 337 Mich App at 273. Among other statutory grounds, the trial court found termination justified under MCL 712A.19b(3)(c)(*ii*), under which grounds for termination exist if the trial court finds by clear and convincing evidence that: (1) "182 or more days have elapsed since the issuance of an initial dispositional order," MCL 712a.19b(3)(c); (2) conditions other than those that led to adjudication exist that cause the child to come within the court's jurisdiction; (3) the respondent received recommendations to rectify those conditions and had a reasonable opportunity but failed to do so; and (4) there is no reasonable likelihood that the respondent will do so within a reasonable time given the children's ages, *In re Sanborn*, 337 Mich App at 273 (citation omitted).

We find no clear error in the trial court's finding that statutory grounds for termination existed under MCL 712A.19b(3)(c)(*ii*). First, respondent's parental rights were terminated in October 2025, over 1,000 days after the initial dispositional order was issued in February 2022, well beyond the 182-day threshold. See MCL 712a.19b(3)(c).

Second, there were conditions other than those that led to adjudication that caused the children to come within the court's jurisdiction. See *In re Sanborn*, 337 Mich App at 273. Specifically, although jurisdiction was exercised over respondent based initially on his CSC conviction and the prior terminations of his parental rights to other children, it subsequently became clear that respondent's deficient parenting skills significantly affected his ability to safely and properly care for TB and KB. More specifically, there was a wealth of testimony and documentation to the effect that respondent was unable to adequately respond to his children's needs in a timely manner, which often raised safety concerns such as when TB would get approximately 50 feet away before respondent realized that TB had run away and when service providers had to intervene while the children were putting foreign items in their mouths. There was also evidence that respondent failed to appropriately respond to his children's behavior, particularly with respect to TB, who had behavioral challenges, without prompting and in a consistent manner, and that respondent struggled to manage both children.

Moreover, respondent's parental capacity evaluation reported concern about respondent's ability to understand the impact of TB's medical diagnosis, and that it was necessary, given respondent's parenting-skills issues, for respondent to have "a full network of support including . . . a stable co-parent to assist him in improving upon his current level of parenting skills." There was a lack of evidence, however, that such a "stable co-parent" was present for respondent. And, more generally speaking, there were numerous reports of respondent's lack of improvement in his parenting skills even after receiving services, like petitioner's statement in November 2022 that respondent had not shown "much benefit" from the supportive-visitation services, testimony in March 2024 that respondent's parenting skills had been "leveled out for quite some time," and testimony at respondent's termination trial that respondent was unable to apply the feedback he received during parenting time. Given this evidence, respondent's inadequate parenting skills caused TB and KB to come within the court's jurisdiction.

Third, respondent received recommendations to rectify his parenting-skills issues and failed to do so despite having a reasonable opportunity. See *id.* Respondent engaged with aids such as an in-home parent-support coach and a behavioral specialist and participated in services like a supportive-visitation program and infant mental-health services with TB. But despite the various services administered, in addition to others that respondent did not engage in but was referred to, there was significant evidence that respondent's parenting skills failed to improve sufficiently to enable him to safely parent TB and KB. See *In re Lombard*, 351 Mich App 523, 532-533; 35 NW3d 751 (2024) (finding statutory grounds for termination when the respondent failed to "achieve[] any meaningful change" in her deficient parenting skills, among other conditions).

And fourth, there is sufficient evidence to support the trial court's finding that there is no reasonable likelihood that respondent will rectify his parenting-skills issues within a reasonable time given TB's and KB's ages. See *In re Sanborn*, 337 Mich App at 273. The children were removed from respondent's care when TB was one year old and KB was a few weeks old.[2] By the time respondent's parental rights were terminated, the children had been in respondent's brother's and sister-in-law's care for almost four years and respondent had received services throughout the pendency of the case. Despite respondent's engagement with numerous services over the course of multiple years, he failed to rectify his parenting-skills issues. In light of the length of the provision of services without adequate improvement in respondent's parenting skills, we find no clear error in the trial court's finding that there was no reasonable likelihood that respondent's parenting-skills issues would sufficiently improve within a reasonable time considering the ages of his children. See *id.* at 274-275 (finding that it seemed unlikely a respondent's parenting-skills and emotional-stability issues would be rectified within a reasonable time given her child's age when the respondent had received services for about 12 months and the child had been in petitioner's care for 15 months); *In re Williams*, 286 Mich App 253, 273; 779 NW2d 286 (2009) (concluding that there was no reasonable likelihood that the respondent would rectify the impeding conditions within a reasonable time because "the two years [the child] already had spent in foster

[2] Following birth, KB was admitted as a patient to the neonatal intensive care unit (NICU) of a local hospital. She was removed from respondent's care while still in the NICU.

care, her entire life, constituted too long a period to await the mere possibility of a radical change in [the respondent's] life").

The trial court therefore did not clearly err by finding that grounds for terminating respondent's parental rights under MCL 712A.19b(3)(c)(*ii*) were established by clear and convincing evidence.[3] See *In re Mota*, 334 Mich App at 320.

## C. BEST INTERESTS

Respondent lastly contends that the trial court erred by finding that termination of his parental rights was in the children's best interests. We find no clear error in this determination.

"Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App at 40, citing MCL 712A.19b(5); MCR 3.977(E)(4). "Best interests are determined on the basis of the preponderance of the evidence." *In re LaFrance*, 306 Mich App 713, 733; 858 NW2d 143 (2014). In deciding whether termination of parental rights is in a child's best interests, a trial court "should place its focus on the child rather than the parent," *In re CJM*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367565); slip op at 4 (quotation marks and citation omitted), and "weigh all the evidence available[,]" *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). Factors to be considered by a trial court in making a best-interest determination "may include '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 White*, 303 Mich App at 713, quoting *In re Olive/Metts*, 297 Mich App at 41-42. A trial court may also consider "the length of time the child was in care, the likelihood that the child could be returned to her parents' home within the foreseeable future, if at all, and compliance with the case service plan." *In re Atchley*, 341 Mich App at 346-347 (quotation marks and citation omitted). Moreover, "because a child's placement with relatives weighs against termination," a trial court must explicitly consider that fact when determining whether termination is in the child's best interests. *In re Olive/Metts*, 297 Mich App at 43 (quotation marks and citation omitted).

The trial court did not clearly err by finding that termination was in TB's and KB's best interests. In conducting its best-interest analysis, the trial court acknowledged respondent's love for the children as well as respondent's bond with TB. See *In re White*, 303 Mich App at 713. In light of testimony that KB has no bond with respondent and that KB "plays independently at visitation and does not seek [respondent] out for comfort, . . . nor does she run up to [respondent] for hugs at the beginning of parenting time," the trial court did not clearly err by finding that respondent and KB did not share a bond. See *id.*

[3] Because the trial court did not clearly err by finding statutory grounds to terminate respondent's parental rights under MCL 712A.19b(3)(c)(*ii*), we need not address whether statutory grounds also existed under MCL 712A.19b(3)(c)(*i*), (g), (j), and (m). See *In re Sanborn*, 337 Mich App at 273.

The trial court also emphasized respondent's struggles with parenting skills, explaining how respondent could not understand TB's special needs and was unable "to provide follow-through at parenting times, even after much instruction." See *id.* These deficient parenting skills posed a risk to the children's safety when they were in his care without additional supervision. *In re Kaczkowski*, 325 Mich App 69, 79; 924 NW2d 1 (2018) (concluding that termination was in the child's best interests when a caseworker "stated that termination would provide the child with the permanency she needed, especially considering that respondent would not be able to improve her deficient parenting skills within a reasonable period of time"). Although the record demonstrated respondent's love of the children, there was not a reasonable likelihood that the children would be able to safely return to his care in the foreseeable future, if ever. See *In re Atchley*, 341 Mich App at 346-347.

Moreover, the trial court properly considered that the children's placement with relatives weighed against termination, concluding that termination was in the children's best interests "despite this being a relative placement." See *In re Olive/Metts*, 297 Mich App at 43. The trial court further noted the children's bond with their foster parents, highlighting evidence that the children call them "Mom and Dad" and the foster parents' willingness to adopt the children. And although respondent argues that the trial court improperly favored the foster parents' higher income, the trial court's discussion makes clear that the court properly considered their ability to provide the children a stable environment, and it is not error for a trial court to consider the advantages of a foster home over a parent's home. See *In re Atchley*, 341 Mich App at 346-348 (finding termination was in a child's best interests when the respondent was not making progress toward reunification and "[t]he child was doing better in foster care and her need for stability and permanency weighed in favor of termination"). The trial court stated, for example, that the foster home was "the only home [KB has] ever known" and that respondent's bond with TB was "outweighed by [TB's] needs for proper care and stability." See *In re Frey*, 297 Mich App at 248-249 (concluding that the trial court did not clearly err in finding termination of parental rights in the child's best interests when "[t]he child was in foster care or placed with relatives for 22 months" and "the evidence showed that it was unlikely that the child could be returned to her parents' home within the foreseeable future, if at all"). The court also contrasted the foster parents' ability to care for TB's special needs with respondent's need for someone to be "present all of the time in order to be around [the] children." See *In re Atchley*, 341 Mich App at 346. In light of the numerous factors described by the trial court, as supported by the evidence the court highlighted, we find no clear error in its determination that termination was in the children's best interests. See *In re Mota*, 334 Mich App at 320.

Respondent also argues that the trial court erred by "not seriously considering a juvenile guardianship" with their aunt and uncle, the foster parents who were willing to adopt them. "Under appropriate conditions, a trial court may forgo termination and instead place a child in a guardianship[,]" *In re Lombard*, 351 Mich App at 534, "allow[ing] the child to keep a relationship with the parent when placement with the parent is not possible[,]" *In re TK*, 306 Mich App 698, 705; 859 NW2d 208 (2014). However, "[a] trial court is not required to establish a guardianship in lieu of termination if it is not in the child's best interests to do so." *In re Lombard*, 351 Mich App at 534.

Although respondent's interest in a guardianship fluctuated throughout the trial-court proceedings, when rendering its opinion the trial court observed that "[a]ny mention of [a

guardianship] during the trial had [respondent] shaking his head no, as he continues to do so today. He is . . . not willing to do that." The record reflects that there was significant conflict between respondent and the foster parents. Although the foster parents initially supervised respondent's visits with the children, arguments arose after respondent spent time on video calls during the visits rather than with the children. The foster parents then became unwilling to supervise parenting time, at which point their relationship with respondent deteriorated, and they were unable to resolve their differences despite participation in a family team meeting and mediation. Continuing to allow this conflict to fester during a guardianship would not have been in the children's best interests. And at the same time, as of respondent's termination trial, TB and KB had already been in foster care for most of their lives and were strongly bonded with their caregivers, who in turn were willing to adopt the children and were able to provide for their needs. In light of this evidence, the trial court did not clearly err in not finding that a guardianship was in the children's best interests. See *id.*

Affirmed.

/s/ Randy J. Wallace
/s/ Thomas C. Cameron
/s/ Daniel S. Korobkin