

STATE OF MICHIGAN
COURT OF APPEALS

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In re MUSCAT, Minors.

No. 376455
Wayne Circuit Court
Family Division
LC No. 2022-000673-NA

Before: GADOLA, C.J., and O’BRIEN and MARIANI, JJ.

PER CURIAM.

Respondent appeals as of right the trial court’s order terminating his parental rights to the minor children, NLM, NALM, and SRTM, under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist), (c)(ii) (new conditions that could have led to adjudication were not resolved), (g) (parent financially able to care for children failed to do so), and (j) (risk of harm if returned to parent). We affirm.

I. FACTS

The children came into the care of petitioner, the Department of Health and Human Services (DHHS), following a tumultuous and violent incident on March 19, 2022, during which respondent attacked Ariel Foster (the children’s mother), MNPF (Foster’s child from a different father), and Debra Tabor (Foster’s mother and the children’s maternal grandmother).¹ On that day, respondent sexually and physically assaulted Tabor while NALM and SRTM were in the home. Respondent struck Tabor with a metal bat, stomped on her, and kicked her out of the home. Respondent also physically attacked MNPF by hitting him with a metal bat; putting a knife to his throat and threatening to slit his throat, “gut [him] like a deer,” and kill him; punching him in the face; and smashing his head into a closet door. In addition, respondent physically assaulted Foster in front of the children during this incident. The police were called and Foster was able to run out of the home with NALM and MNPF when the police arrived. Respondent held five-month-old

¹ Foster was also a respondent in this matter, but she passed away on January 19, 2023.

SRTM hostage in the home and had a gun in his hands. Also present were two “vicious” dogs, one of which the police had to shoot to reach respondent. Respondent refused to cooperate with the police and pointed a gun at the officers. Respondent was shot by the police and later hospitalized for the gunshot wound. Respondent was criminally charged for this incident.

The DHHS filed a petition on May 13, 2022, to terminate respondent’s parental rights to the children at the initial dispositional hearing due to “unfit home/neglect, criminality, failure to protect, domestic violence, substance abuse, untreated mental health, educational neglect, and prior [Children’s Protective Services (CPS)] history.” In addition to detailing the March 19, 2022 incident, the petition also alleged that respondent was previously arrested and criminally charged for physically assaulting Foster and stabbing the maternal grandfather in June 2021. The petition further stated that the home was unfit for the family to live in because of an overpowering odor of animals and feces. CPS also determined that NLM and NALM did not regularly attend school. In the 2021-2022 school year, NLM had 41 absences, and NALM had 43 absences. Additionally, the petition included respondent’s prior involvement with CPS. On November 2, 2018, CPS found evidence of physical neglect with NLM and NALM; the home was observed to have a pungent odor as well as eight dogs. A case was opened and closed when the family addressed the issue of home cleanliness. Later, on May 21, 2019, CPS found evidence of physical neglect with NLM and NALM a second time. Inside the home was a strong odor of animal feces, seven pit-bulls, one German Shepherd, two bearded dragons, one alligator, one bird, and one snake. Foster admitted that the home had fleas, and the children were observed to have dirty school uniforms. CPS referred the family to Families First to address home management and appropriate hygiene, and the family completed services.

At a hearing on April 17, 2023, respondent pleaded no contest to jurisdiction and statutory grounds, and the police report of the March 19, 2022 incident was admitted in support of the no contest plea. At the June 12, 2023 best-interest hearing, the trial court found that termination of respondent’s parental rights was not in the children’s best interests. Therefore, instead of termination of his parental rights, respondent was given a parent-agency treatment plan (PATP). Respondent was to participate in a psychological evaluation and follow any recommendations; participate in therapy including domestic-violence prevention and anger management; complete a substance-abuse assessment; participate in family therapy when appropriate; complete parenting classes; maintain housing and a source of income; appear at all hearings; and maintain contact with his case workers.

NLM was placed with fictive kin, and NALM and SRTM were together in a foster home. Respondent largely complied with his PATP, but foster care workers were concerned that he was not showing benefit. At his parenting-time visits, respondent showed favoritism of NLM and SRTM, made rude comments to NALM, and did not intervene when the children got into fights. NALM had panic attacks and nightmares that respondent was going to show up at her foster home. Respondent’s parenting time was suspended due to concerns that he would try to influence the children’s testimony in his criminal case and the negative impact the visits were having on the children’s well-being.

On March 25, 2024, the DHHS filed a supplemental permanent custody petition seeking termination of respondent’s parental rights. Regarding parenting, the petition alleged that although respondent completed parenting classes, he failed to benefit from them, as evidenced by a lack of

implementation of parenting skills learned in the classes such as reprimand, redirection, explanation, and follow through; failing to nurture positive emotions; displaying preference for one child over another; responding inappropriately to the children's negative behavior; failing to soothe or comfort the children; displaying inappropriate emotional behavior in front of the children; and failing to apply corrections given by the case workers. The petition further alleged that respondent denied needing domestic-violence prevention services, though the children reported witnessing severe domestic violence. Regarding individual therapy, the petition alleged that respondent's therapist reported that respondent had not acknowledged the reason for the children being in care or taken responsibility for his part in the children being removed. The petition also alleged that respondent's psychological evaluation recommended that he abstain from using any substances, but respondent continued to use marijuana, and his drug screens were positive for THC throughout the case. The petition also detailed numerous instances of respondent acting inappropriately with the children during parenting-time visits. Finally, the petition alleged that respondent was not satisfactorily bonded with the children.

At the November 21, 2024 permanent custody hearing, respondent admitted that he pleaded guilty in criminal court to second-degree child abuse, MCL 750.136(B)(3); and assault with a dangerous weapon, MCL 750.82, stemming from the March 2022 incident. The child-abuse count carried a mandatory prison sentence of one and a half to ten years. However, in his family court hearings, respondent continued to deny having ever physically abused the children and claimed that he was in jail because MNPF had hit him with a baseball bat.

Following a termination hearing, the trial court held that termination of respondent's parental rights was appropriate under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j), and in the best interests of the children. This appeal followed.

II. ANALYSIS

A. STATUTORY GROUNDS

Respondent argues that the trial court clearly erred in finding by clear and convincing evidence statutory grounds to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We disagree.

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re Jackisch/Stamm-Jackisch*, 340 Mich App 326, 333; 985 NW2d 912 (2022) (quotation marks and citation omitted). "This Court reviews for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination." *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011). When applying the clear error standard in parental termination cases, we must afford deference "to the special ability of the trial court to judge the credibility of witnesses." *In re Medina*, 317 Mich App 219, 227; 594 NW2d 653 (2016) (quotation marks and citation omitted).

The trial court terminated respondent's parental rights to the children under MCL 712A.19b(3)(c)(i). In relevant part, that statute provides:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(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.

Here, respondent pleaded no contest to the trial court exercising jurisdiction over the children based on the March 19, 2022 police report. The conditions that led to adjudication included respondent's inability to provide the children with a stable and safe home environment free of domestic violence. The trial court found that jurisdiction was warranted based on educational and environmental neglect, domestic violence and physical abuse, substance abuse, criminality, prior CPS history, and physical abuse. The initial dispositional order was entered on June 21, 2023, and statutory grounds were found on April 17, 2025, approximately 22 months later. Therefore, "182 days or more ha[d] elapsed since the issuance of [the] initial dispositional order" MCL 712A.19b(3)(c).

Though respondent participated in his PATP, which included a batterer's intervention program and parenting classes, it was apparent that he had not benefited. Respondent failed to demonstrate the parenting skills necessary to prove that he had become a fit parent to be reunified with the children. Respondent was unable to appropriately parent the children during his parenting time. Respondent was unable to redirect the children when they were acting out, yelled at the children, displayed favoritism, and did not understand or acknowledge the children's struggles with the trauma they endured due to respondent's abusive and negligent conduct toward the children. Further, respondent was dismissive of suggestions on how to improve his parenting skills. Thus, even though respondent attended his required classes, he did not internalize and learn or benefit from the content, and he never received unsupervised parenting time. Respondent was given a prison sentence in December 2024 for the March 2022 incident that led to the children being removed from his care, so respondent was incarcerated at the time of the termination trial.²

Additionally, respondent minimized his role in the children's removal and did not take responsibility for the harm that he caused to the children. Respondent instead blamed others for why the children ended up in foster care and relative placements. For instance, respondent denied

² According to the Michigan Department of Corrections Offender Tracking Information System (OTIS), defendant was paroled on February 24, 2026.

that there was ever any domestic violence in the home prior to the March 2022 incident and denied punching NLM, despite NLM testifying that respondent punched him in the face and physically disciplined him. Respondent instead blamed NLM's black eye on NLM's half-brother, EEF. Respondent also testified that he had "no clue why" the children would be afraid of him.

Given that, in the 22 months since adjudication, respondent had not demonstrated an ability to safely parent the children, nor had respondent taken responsibility for the harm he caused the children, there was no reasonable likelihood that respondent would be able to rectify the conditions leading to adjudication. Therefore, termination was appropriate under MCL 712A.19b(3)(c)(i). As only one statutory ground is needed to terminate parental rights, we do not consider the other arguments made by respondent-father regarding statutory grounds. *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013).

B. BEST INTERESTS

Next, respondent argues that the trial court clearly erred by finding that termination of his parental rights was in the children's best interests. We disagree.

This Court reviews the trial court's decision that termination is in a child's best interests for clear error. *White*, 303 Mich App at 713. "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 Jackisch/Stamm-Jackisch*, 340 Mich App at 333.

"Once a statutory basis for termination has been shown by clear and convincing evidence, the court must determine whether termination is in the child's best interests." *In re LaFrance*, 306 Mich App 713, 732-733; 858 NW2d 143 (2014), citing MCL 712A.19b(5). Whether termination is in the children's best interests must be established by a preponderance of the evidence. *Id.* at 733. A best-interest analysis should focus on the child, not the respondent. *Moss*, 301 Mich App at 87. When determining if termination is in a child's best interests, the trial court may consider the bond between the child and the respondent, the respondent's parenting ability, the child's need for stability and permanency, and the advantages of the child's current placement over their parent's home. *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). Generally, it is in a child's best interests to keep siblings together. *Id.* The best interests of a child should be decided individually. *Id.* However, if the best interests of the children do not significantly differ, the trial court does not need to make "redundant factual findings." *White*, 303 Mich App at 715-716. The trial court may also consider any history of domestic violence, the respondent's compliance with their service plan, the respondent's visitation history with the child, the child's well-being in their current placement, and the potential for adoption. *Id.* at 714. When a child is placed with a relative, this weighs against termination of parental rights but is not dispositive. *In re Atchley*, 341 Mich App 332, 347; 990 NW2d 685 (2022). The trial court may consider the preference of the child when they are of a sufficient age to express a preference. *In re Medina*, 317 Mich App at 239.

The trial court did not clearly err in determining that termination of respondent's parental rights was in the children's best interests. Regarding parenting, the trial court found that although respondent largely complied with his PATP, respondent did not benefit from the services he

received, as displayed in his parenting time with the children, which was “often inappropriate,” and the visits were harmful to the children. During parenting-time visits, respondent did not recognize the emotions of the children, did not support them, showed clear favoritism, would not take action when they misbehaved, and had a history of using physical punishment for discipline. Respondent described his parenting-time visits completely differently from the workers who were present, suggesting either a difficulty recognizing the reality of the situation or a willingness to lie. Respondent attended all but one or two of his parenting times, though he was never granted unsupervised parenting time due to his inability to demonstrate the parenting skills he should have learned in classes.

The trial court also properly considered the children’s preferences and opinions regarding termination of respondent’s parental rights. NALM clearly indicated that she did not wish to be returned to respondent’s care. NLM said that he wanted to maintain contact with respondent but also that he wanted to be adopted by his aunt and uncle. When pressed about his preference if adoption meant that NLM could no longer see respondent, NLM stated that he would not want respondent’s parental rights to be terminated. However, respondent’s parental rights being terminated would not necessarily mean NLM could have no relationship with respondent. NLM will turn 18 in approximately two years and will be able to decide whether he wants to see respondent without court involvement. The trial court appropriately weighed NLM’s expressed preference with the risk of harm posed by maintaining respondent’s parental rights. SRTM was too young to express a placement preference but was reportedly comfortable and affectionate with his foster family.

The trial court also considered respondent’s significant history of domestic violence. Respondent harmed and threatened MNPF, physically abused Tabor and Foster in front of the children, hit NLM, and used physical discipline. The children were traumatized when they entered foster care, and NALM was very afraid of respondent.

Regarding the children’s need for permanency, stability, and finality, the trial court considered the length of time that the children had been in foster care or placed with relatives and the likelihood that any of the children would be returned to respondent within the foreseeable future. The children would all benefit from permanency and stability after being placed in multiple foster homes and being in care for more than three years. The children all showed improvements in their mental health after being removed from respondent’s care. The trial court noted that NLM was placed with his mother’s adopted brother, who was willing to provide long-term care and adopt. NLM’s placement with a relative weighed against termination. However, the trial court found that the risk of harm posed by respondent outweighed this factor. There is sufficient evidence to support this conclusion, given the physical abuse perpetrated by respondent as well as the clear trauma suffered by the children. NALM and SRTM were placed together in foster care where they benefited from therapy and individualized education programs that were not in place when they were with respondent. NALM and SRTM’s foster parents were also willing to adopt. All three children were doing well in their placements.

While respondent repeatedly stated that he had a strong bond with all three children, it seemed that he at most had a bond with NLM. Further, any bond was outweighed by the children’s need for safety, permanency, and stability.

The trial court determined that respondent was not fit to parent, and that there was no reasonable expectation that he would become fit to parent any of the children in the near future, so adoption was the best permanency plan for the children for their continued stability. In light of this evidence, we conclude that the trial court did not clearly err by finding that it was in the children's best interests to terminate respondent's parental rights.

Affirmed.

/s/ Michael F. Gadola
/s/ Colleen A. O'Brien
/s/ Philip P. Mariani