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STATE OF MICHIGAN

COURT OF APPEALS

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In re GREEN/ANGLEMYER, Minors.

No. 379086
St. Joseph Circuit Court
Family Division
LC No. 2021-000586-NA

Before: SWARTZLE, P.J., and ACKERMAN and TREBILCOCK, JJ.

PER CURIAM.

Respondent appeals the trial court's order terminating his parental rights to his minor children, SG and WA. That order cited respondent's failure to follow the court-ordered plan to address his history of drug addiction, mental health issues, and domestic violence against the children's mother, all of which contributed to adverse outcomes for the children during supervised parental visits despite respondent's recognized love for them. We affirm.

I. FACTUAL AND PROCEDURAL HISTORY

In July 2024, the Department of Health and Human Services (DHHS) petitioned for the removal of the children from respondent's care following their mother's raising of safety concerns with Children's Protective Services (CPS). The petition alleged, and the trial court agreed, that it was contrary to the children's welfare to remain in respondent's care due to illicit drug use and domestic-violence issues between respondent and the children's mother.

A severe car accident later that summer delayed respondent's parenting-time visits until January 2025. At that time, a DHHS caseworker identified through testimony to the trial court many parenting barriers for respondent, including his history of methamphetamine addiction, mental-health issues, and domestic violence. The trial court subsequently ordered respondent to, among other things, not use any illegal drugs and alcohol, submit to random testing, comply with DHHS parenting education and counseling, and attend and participate in infant mental health services and any services provided to the children.

Respondent had mixed success in complying with that order. As of July 2025, respondent was four months sober, but had not attended any of the offered treatment programs for his

substance abuse. His parenting time visits with the children also began to be an issue—a caseworker reported that the children were having "severe reactions to parenting time," behavioral and physical. She recommended a "pause" on parenting time so that the children could "calm down, let their nervous system regulate, get back to base line where they're sleeping and eating and not having this extreme chaos and reaction." The trial court agreed, and suspended parenting time for two weeks.

At following hearings, the trial court heard substantial evidence about the continued impact of respondent's parenting time on the children. Their foster parent, for example, testified regarding their severe physical reactions following visits with respondent, stating that on parenting-visit days, SG exhibited "aggressive" behaviors and that "[i]t's not I'm frustrated and I'm mad at you type of thing, it's more like I'm gonna hurt you. I will hurt you. If you hurt me I will hurt you. He uses some of those words sometimes." She also testified that the younger WA responded by "screaming" and "crying."

An infant mental-health specialist working with both respondent and the children provided similar testimony. Indeed, she ultimately recommended termination as a goal change: "[SG] and [WA] generally do okay during their actual visits with dad . . . . Unfortunately they're triggered and reminded about things. [SG] has talked about things after visits that are hard for him, so it's that ongoing exposure that's been really difficult for him . . . ." She acknowledged, "This is a really hard case because [respondent] loves his boys and wants to be with them and wants to have this relationship with them and it's just the boys are really having struggles with it." Finally, the DHHS caseworker reported "no progress" after a couple months of respondent and the children participating in therapeutic parenting-time sessions and reported that the children were still having "[v]ery severe reactions" after spending time with respondent.

DHHS eventually filed a supplemental petition requesting termination of respondent's parental rights under MCL 712A.19b(3)(c)(*i*) (conditions of adjudication continue to exist) and MCL 712A.19b(3)(j) (reasonable likelihood of harm to children upon return), noting the parenting-time issues and respondent's failure "to complete any court-ordered services to reduce barriers necessary for reunification between him and his minor children." At the termination hearing, the infant mental-health specialist and the children's foster parent each reiterated their observations that the children severely struggled—both physically and emotionally—following parenting times with respondent, and that the pause in parenting times was the only solution to the children's reactions. The specialist affirmed that she had concerns with the children returning to respondent, and when asked whether respondent's continued participation in the children's treatment would "aid in their processing and healing from trauma," she testified: "I would hope so. I don't know though. Again, based on that we've been dealing with this for quite some time and I am still not seeing the progression that I would want to be seeing at this point in time." She also opined that termination was in the children's best interests because "the children need time and space to heal from this trauma. They have been exposed to so much chaos, you know, in their little lives."

The trial court ultimately terminated respondent's parental rights to both SG and WA under MCL 7 12A.19b(3)(c)(*i*) (conditions of adjudication continue to exist) and under a section not set

forth in the supplemental petition, (c)(*ii*) (failure to rectify other conditions).[1] Respondent now appeals by right.

II. DHHS'S FAILURE TO FILE A BRIEF

The State charged in this case that respondent was not capable of rearing his two children and successfully convinced the lower court that it met its statutory burden to terminate respondent's parental rights. We expect that in all matters—and especially in ones so serious as permanently removing the right to raise a biological child—that the State will timely devote resources to defending a lower court judgment it desires to enforce. The State's efforts here leave a lot to be desired. For reasons unknown, it did not file a brief in this matter (despite this Court reminding it on July 22, 2026 that its brief was outstanding). To be sure, DHHS was not obligated to file an appellee brief, cf. *People v Smith*, 439 Mich 954, 954 (1992), but not doing so means we are issuing an opinion on the merits today without the benefit of adversarial briefing, see *People v Hatfield*, 46 Mich App 149, 151; 207 NW2d 485 (1973). It is our hope that DHHS will heed our expression of disappointment in this case, as in others, see, e.g., *In re Grace Minors*, unpublished per curiam opinion of the Court of Appeals, issued March 6, 2026 (Docket No. 369630), concerning DHHS's appellate briefing practices and change its approach.

III. TERMINATION OF PARENTAL RIGHTS

With that admonition, we turn to the issues presented on appeal. Respondent challenges the trial court's statutory-grounds determinations and best-interest findings. This Court reviews for clear error both the trial court's decision that DHHS proved a statutory ground for termination by clear and convincing evidence and that the preponderance of the evidence demonstrated that termination was in the children's best interests. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

A. STATUTORY GROUNDS

We begin by noting the trial court erred in terminating respondent's parental rights under MCL 712A.19b(3)(c)(*ii*). The operative supplemental petition did not request termination under that provision, which permits termination for failing to rectify other conditions (here, the children's dysregulation following parenting time); thus the trial court's termination of his rights under (c)(*ii*) failed to ensure compliance with respondent's due process rights, see, e.g., *In re Rood*, 483 Mich 73, 93; 763 NW2d 587 (2009), for the simple reason that he lacked sufficient notice to rectify the conditions. But that failure does not render respondent's appeal meritorious. We must affirm a trial court's termination decision if at least one ground for termination existed. See *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). And here, the record supports the trial court's findings that conditions of adjudication continued to exist under MCL 712A.19b(3)(c)(*i*).

Domestic-violence issues, substance abuse, financial instability, and homelessness were the issues that led to respondent's adjudication. He had not obtained "independent housing" at the time of the trial and had moved in with his new girlfriend, but had secured employment. While

[1] It also terminated the parental rights of SG's and WA's mother.

his employment was a positive development, DHHS and the court were concerned with his living conditions because his girlfriend had a history of violence towards her children and respondent remained indifferent to her background.[2] As stated by a DHHS caseworker, "I don't see a scenario where we could put high needs kids in that home, and [respondent] has his own history of physical abuse and violence."

Regarding substance abuse, a DHHS caseworker testified that, although he had been "testing clean" since March 2025, he was not engaging with a "positive support system, the rehab prevention plan," and that she was concerned he "has not shown a plan to maintain his sobriety long term or what he's going to do if he was to relapse."[3] Additionally, the DHHS caseworker testified that, although respondent no longer maintained a romantic relationship with the children's mother, his decision to "fight[] and argu[e] and be[] violent in front of the kids" when the children were younger resulted in their "significant trauma based reaction[s]." The totality of the evidence supports the trial court's findings that respondent "had not accomplished any meaningful change in the conditions" that led to the adjudication. *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009).

Respondent argues that the trial court erred by finding that the conditions of domestic-violence between himself and the children's mother continued to exist at the time of termination. That is not our understanding of the record. Upon a critical review, our read is that trial court acknowledged that respondent was no longer in a romantic relationship with the children's mother and instead focused on the continued effects of domestic violence on the children's well-being when it terminated respondent's rights under MCL 712A.19b(3)(c)(*i*). *Id*. In other words, while the likelihood of continued domestic violence between the parents was low, the detrimental effects of the prior violence permeated this matter. And, that was but just one aspect of the trial court's (c)(*i*) finding.

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[2] We disagree with the dissent's conclusion there is "nothing in the record to suggest that the housing itself was deficient." The DHHS caseworker informed the trial court that respondent was "aware prior to me testifying that his girlfriend bit her kids twice and he doesn't have a concern with that and is making excuses for that." She explained further that respondent "is showing a lack of insight into the safety risk that his significant other he is living with could pose to his children. He has shown a neglectful parenting style as far as not following through with age appropriate developmental needs." Unlike the dissent, we see no clear error in the trial court noting these living conditions in reaching its conclusion.

[3] We reject the dissent's suggestion that the trial court ignored respondent's recent sobriety in terminating respondent's rights. To the contrary, we see no clear error in the trial court's conclusion in the face of testimony in the record before it regarding respondent's decades-long methamphetamine addiction, possession of methamphetamine during the proceedings below, and that even during his recent period of sobriety, respondent was "failing to attend weekly meetings" to address his addictions to methamphetamine and alcohol.

B. BEST INTERESTS

"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. When considering best interests, the focus is on the child's interests rather than the parent's interests. *In re Moss*, 301 Mich App 76, 87; 836 NW2d 182 (2013). "The trial court should weigh all the evidence available to determine the child's best interests," *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014), 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 41-42 (citations omitted). It can also consider the likelihood that "the child could be returned to [the] parent's home within the foreseeable future, if at all." *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012).

Although the record demonstrates both respondent's love for his children and his desire to develop a healthy relationship with them, unlike the dissent, we are unable to discern a clear error in the trial court's findings regarding the children's best interests. Consider the testimony of the foster parent and the infant mental-health specialist. Both proclaimed that respondent's parenting time negatively affected SG and WA, manifesting in physical and emotional reactions at home, school, and daycare. The specialist also testified that "the children need time and space to heal from this trauma" and that she was unsure whether respondent's continued participation in the children's treatment was aiding their healing. While acknowledging some of the positive steps respondent had made and the love he shows for his children, the specialist testified that respondent "just lacks the capacity to kind of create that structured environment that the kids need . . . . [T]here's also concerns with kind of just the overall stability of placement if they were returned to him right now." Under the highly deferential standard of review we are required to apply, we can discern no clear error in the trial court's reliance on this testimony in concluding that termination of respondent's rights was in the best interest of the children.

Respondent argues that the solution to the children's physical and emotional reactions following parenting time was to allow *more* parenting time so the children could process their trauma, not to terminate respondent's parental rights. But he fails to cite any evidence from the record recommending *continued* parenting time with the children as the solution to address their issues. We also disagree with the dissent that "there [isn't] anything in the record to show what steps respondent-father could have taken, but did not, to address that trauma." The DHHS caseworker explained that she "encouraged [respondent] to work with his primary therapist on these issues" but that "it sounds as if he's had limited progress in that treatment." Regarding parenting education, she testified that "we have offered him extensive services for parenting. He has not shown the ability to engage in that fully, and he certainly hasn't shown benefit from that." Contrary to the dissent's suggestions, the record demonstrates the children presented great improvement during parenting-time suspension and then regressed and displayed severe physical and emotional reactions upon resumption. In sum, the trial court properly focused on the children's interests rather than respondent's interests. See *In re Moss*, 301 Mich App at 87. On this record, there is no clear error in the trial court's conclusion that it is in the children's best interests to terminate respondent's parental rights.

IV. CONCLUSION

For these reasons, we affirm the trial court's judgment.

/s/ Matthew S. Ackerman
/s/ Christopher M. Trebilcock

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SWARTZLE, P.J.

I respectfully concur in part and dissent in part. I agree with the majority's conclusion that the trial court erred in finding that MCL 712A.19b(3)(c)(*ii*) supported termination here. Similarly, I agree with the majority's admonition of the Department of Health and Human Services (DHHS) for failing to file a brief or otherwise participate in this appeal in any way. Our system of adjudication works best when it is truly adversarial, rather than leaving it solely to judges and staff to determine whether the non-participating party has a meritorious case.

I part ways with the majority, however, with respect to whether DHHS proved by clear-and-convincing evidence that there was a statutory ground for termination under MCL 712A.19b(3)(c)(*i*). On my reading of the record, respondent-father made meaningful change in the conditions that led to the adjudication. On the matter of substance abuse, for example, respondent-father consistently tested clean for any illegal substances, and with respect to alcohol, he consistently tested clean for over eight months before the termination hearing. That he did not engage with a "positive support system, the rehab prevention plan," as alleged by DHHS, seems to miss the forest for the trees.

With respect to financial stability, respondent-father obtained a stable, full-time job at a Tier 1 automative supplier. As to housing, he moved into housing with a girlfriend, and there was nothing in the record to suggest that the housing itself was deficient. Housing need not be "ideal" to be sufficient. *In re Brown*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 371986); slip op at 1, 8-9.

As for the domestic-violence issues, this seems to be the most significant area of concern for the trial court. Respondent-father and the children's mother (who was also a respondent and

had her rights terminated) had what can only be charitably described as a "toxic" relationship. The children sustained emotional trauma from the parents' interactions, as detailed in the record below. But by the time of the termination hearing, respondent-father had been separated and ultimately divorced from the children's mother for a significant amount of time.

The real source of the trial court's concern was the emotional trauma that the children experienced as a result of the domestic violence between the parents. At the time of the termination hearing, the children were in a non-adoptive foster-care living arrangement. Other than "pausing" respondent-father's parenting time for two weeks, however, there is little in the record to reflect the efforts that DHHS took to address that trauma. Nor was there anything in the record to show what steps respondent-father could have taken, but did not, to address that trauma. In essence, the trial court concluded that the trauma was too extensive to overcome in a reasonable amount of time.

Where the majority sees "mixed success" by respondent-father in making strides with the conditions that led to the adjudication, I see considerable, if not perfect, success. But as I have noted elsewhere, "perfection has never been the standard" in termination-of-parental-rights cases. *In re Brown*, ___ Mich App at ___; slip op at 8. By all accounts, respondent-father loves his children, and his children love him. Given respondent-father's meaningful strides, and the insufficient record of whether further steps to address the children's trauma had been exhausted by DHHS, I conclude that the trial court erred in finding that DHHS had shown, by clear-and-convincing evidence, that MCL 712A.19b(3)(c)(*i*) was satisfied.

For these reasons, I respectfully concur in part and dissent in part.

/s/ Brock A. Swartzle