

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

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In the Matter of CLAY OLSON, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

REBEKAH ANN WALIGURSKY,

Respondent-Appellant,

and

THOMAS OLSON,

Respondent.

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UNPUBLISHED

May 22, 2007

No. 274712

Dickinson Circuit Court

Family Division

LC No. 04-000529-NA

Before: Cooper, P.J., and Murphy and Neff, JJ.

PER CURIAM.

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

The child at issue was initially removed from respondent-appellant's care in December 2004 after she administered adult, anti-psychotic prescription medication to the child to help him sleep. Respondent-appellant also admitted to smoking marijuana in the child's home. The child also reported that respondent-appellant's boyfriend spanked him with a belt a lot and "beat up" and choked his mother. In February 2005, the court entered its dispositional order, which primarily focused on addressing respondent-appellant's substance abuse and parenting issues. For the next 20 months, she substantially complied with services overall, including substance abuse treatment and services designed to improve her parenting skills, she maintained employment and housing, and the child was returned to her care during the proceedings. Despite her compliance, however, she continued to display problematic conduct after the child's return to her home. Specifically, she adulterated her own prescription medication to account for the child's missing Ritalin, which resulted in criminal charges, her incarceration, and the child's removal from her home, after which he was placed in another foster home. Subsequently, after undergoing additional substance abuse treatment, respondent-appellant repeatedly obtained prescription Vicodin despite court orders and the terms of her probation prohibiting her from

doing so, resulting in additional incarceration. Furthermore, the child was failing all of his subjects at school, was disruptive in the classroom, and refused to do any work, yet respondent-appellant canceled 15 appointments to meet with school personnel about the problems. When a caseworker arrived at respondent-appellant's home for a visit, four men were inside the home and other men were consuming alcohol in the yard, but respondent-appellant could not be found. Respondent-appellant later claimed that she did not know any of the men who were at her home. After conducting a termination trial, the trial court found clear and convincing evidence to support termination of respondent-appellant's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j) and that termination was in the child's best interests.

On appeal, respondent-appellant claims that the trial court clearly erred in terminating her parental rights to the child. We disagree. In order 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 met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). We review the trial court's findings and rulings for clear error. MCR 3.977(J); *Trejo, supra* at 356-357.

Respondent-appellant's continued problems with substance abuse during the proceedings, which jeopardized the child's stability and wellbeing, clearly established that she failed to rectify the condition that led to the child's adjudication and failed to provide proper care and custody for the child during the proceedings. MCL 712A.19b(3)(c)(i) and (g). Her conduct, especially after the child's return to her home, was detrimental to the child's welfare because she was unavailable to care for him due to her incarcerations and resulted in his removal from her home. It is noteworthy that, even after undergoing inpatient substance abuse treatment and counseling, being incarcerated, and having the child removed from her care for a second time, respondent-appellant continued to display a serious lack of judgment by obtaining Vicodin on numerous occasions, despite court orders forbidding her from doing so. It is also telling that respondent-appellant was incarcerated less than one month before the termination trial for violating the terms of her probation when she repeatedly obtained Vicodin. Furthermore, the evidence indicated that respondent-appellant failed to address the child's behavioral problems and ignored his schooling issues. She also allowed unsavory characters in her home, including a registered sex offender.

We further agree that the instability she demonstrated during the proceedings, coupled with the caseworker's testimony that the child, who was ten years old, needed permanency and knowledge of what was going on in his life to be a functional child, clearly established that it was unreasonable for the child to wait any longer for respondent-appellant to rectify her substance abuse issue. This is especially so given her inability to adequately address her issues even though she complied with numerous services during the almost two-year proceedings. Despite her noteworthy efforts with services, we, therefore, find no clear error in the trial court's findings that there was no reasonable likelihood that respondent-appellant's problems with substance abuse would be rectified within a reasonable time and that there was no reasonable expectation that she would be able to provide proper care and custody for the child within a reasonable time. MCL 712A.19b(3)(c)(i) and (g); MCR 3.977(J); *Trejo, supra* at 356-357.

Likewise, given respondent-appellant's prior conduct, including giving the child adult prescription medicine, which potentially endangered his life, the belt spankings administered by a boyfriend, and respondent-appellant's ongoing issues with substance abuse, which clearly upset the child's stability, we fail to find clear error in the trial court's determination that there was a reasonable likelihood that the child would be harmed if returned to her care. Accordingly, termination was also warranted under MCL 712A.19b(3)(j).

Finally, we find no clear error in the trial court's best interests determination. It was apparent that the child and respondent-appellant were bonded and loved each other and that respondent-appellant desired to reunify with the child as evidenced by her efforts during visits and by her undergoing therapy and participating in services to address her issues. Those facts, however, did not "clearly overwhelm" her continued substance abuse issues, which detrimentally affected the child's wellbeing by jeopardizing his stability and which would likely not be rectified in the foreseeable future given her inability to do so during almost two years of court proceedings. *Trejo, supra* at 364. Respondent-appellant argues against termination citing the Guardian ad Litem's indication at the permanency planning hearing that termination would have a very detrimental effect on the child. However, the Guardian ad Litem also indicated that, until respondent-appellant addressed her substance abuse issue, she would never be able to care for the child and, by the time of the termination trial, he recommended termination. The Guardian ad Litem also noted that the child was making great strides in his highly structured and stable foster care environment, including a substantial improvement in school. On this record, the trial court did not clearly err in terminating respondent-appellant's parental rights to the child.<sup>1</sup>

Affirmed.

/s/ Jessica R. Cooper  
/s/ William B. Murphy  
/s/ Janet T. Neff

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<sup>1</sup> Although the trial court did not make extensive factual findings on the best interest inquiry, it is apparent that the court was aware of the issues and correctly applied the law. *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176-177; 530 NW2d 772 (1995). This is evident by the court's extensive findings concerning respondent-appellant's ongoing problems with substance abuse, which was the primary issue in the case. See MCR 3.977(H)(1). Furthermore, considering that the evidence, viewed in its entirety, failed to establish that termination was clearly not in the child's best interests, MCL 712A.19b(5), further explication would not facilitate appellate review. *Triple E, supra*, at 176-177.