

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

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In the Matter of JAYKOB EMERY and SYDNEE  
EMERY, Minors.

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DEPARMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL DAVID EMERY, SR.,

Respondent-Appellant,

and

STACEE ROBYN EMERY, a/k/a STACEE  
ROBYN BAKER,

Respondent.

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In the Matter of JAYKOB EMERY and SYDNEE  
EMERY, Minors.

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DEPARMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STACEE ROBYN EMERY, a/k/a STACEE  
ROBYN BROWN,

Respondent-Appellant,

and

MICHAEL DAVID EMERY, SR.,

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UNPUBLISHED  
February 13, 2007

No. 271826  
Wayne Circuit Court  
Family Division  
LC No. 05-447696-NA

No. 271827  
Wayne Circuit Court  
Family Division  
LC No. 05-447696-NA

Respondent.

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In the Matter of MAKALLAH EMERY,  
MAYGAN EMERY, and MICHAEL EMERY,  
Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL DAVID EMERY, SR.,

Respondent-Appellant,

and

SHANNON M. ALLEN,

Respondent.

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No. 271828  
Wayne Circuit Court  
Family Division  
LC No. 05-447695-NA

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

PER CURIAM.

Respondent-father appeals as of right from the trial court order terminating his parental rights to Makallah, Maygan, Michael, Jaykob, and Sydnee Emery pursuant to MCL 712A.19b(3)(b)(i), (g), and (j), and respondent-mother appeals as of right from the same order terminating her parental rights to Jaykob and Sydnee Emery pursuant to MCL 712A.19b(3)(b)(ii), (g), and (j). We affirm. These appeals are being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). In applying the clearly erroneous standard, the Court should recognize the special opportunity the trial court has to assess the credibility of the witness. MCR 2. 613; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err when it terminated both respondents' parental rights to their children. The minor child Makallah reported that respondent-father sexually abused her and that she had told respondent-mother, her stepmother, who did not believe the child. Eventually, she told the school social worker, who called the police. Makallah testified in chambers at the trial with regard to the sexual abuse. Respondent-father and respondent-mother testified as well. Clearly the trial court had the special opportunity to assess the credibility of the witnesses, and the trial court's findings of fact do not leave this Court with a definite and firm conviction that a mistake was made. The trial court did clearly not err when it found the testimony of the minor child to be credible based on the fact that she was able to describe the sexual acts that occurred and used terminology that an 11-year-old child would not "normally know about." While respondent-father argued that Makallah made up the story of sexual abuse so that she could live with her biological mother, the trial court did not clearly err when it did not believe this to be the case given that the child had not seen her biological mother in over three years. The trial court did not clearly err when it found the testimony of respondent-father to be "highly suspect" and "deep in denial" when respondent-father went so far as to state that he had never been alone with Makallah, and the trial court did not clearly err when it found respondent-mother's testimony to be "suspect" because it was so conflicting. Respondent-mother claimed that the reason she divorced respondent-father was because her attorney told her to do so, and it was not clear whether she believed that respondent-father sexually abused Makallah or not. Respondent-mother denied that Makallah had ever told her of any sexual abuse occurring. Even after the allegations of sexual abuse came to light, respondent-mother claimed that she would stand by respondent-father and that Makallah was making it all up.

The trial court also did not err in its best interests determination. The minor children needed stability and permanency, and it was not shown that respondent-mother could provide that for them because she was still supporting respondent-father and in denial about Makallah's reports of sexual abuse.

Affirmed.

/s/ David H. Sawyer  
/s/ E. Thomas Fitzgerald  
/s/ Pat M. Donofrio