

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHLEY CHURCH and ROGER
CHURCH, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ROGER CHURCH,

Respondent-Appellant,

and

CLARISSA CHURCH,

Respondent.

UNPUBLISHED
December 6, 2007

No. 278429
Berrien Circuit Court
Family Division
LC No. 2006-000127-NA

Before: Schuette, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating his parental rights to his daughter (DOB 4-25-91) and his son (DOB 6-22-96) pursuant to MCL 712A.19b(3)(k)(ii) (parent abused child or sibling of child and the abuse included criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate).¹ For the reasons set forth in this opinion, we affirm.

We review 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). A finding is clearly erroneous when we are left with the firm and definite conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). To be clearly erroneous, a decision must be more

¹ The trial court did not terminate the parental rights of respondent Clarissa Church, the children's mother.

than maybe or probably wrong. *Sours, supra*. If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination 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). We review the trial court's decision regarding the child's best interests for clear error. *Id.* at 356-357.

We affirm the order terminating respondent's parental rights. The undisputed evidence established that respondent engaged in sexual penetration with his daughter, and posted pornographic pictures of her on the Internet.² Moreover, respondent's assertion that termination of his parental rights was not in the children's best interests because the termination would result in the elimination or reduction of the benefits the children received as a result of his status as a disabled veteran is without merit. No witness could testify with certainty as to the amount by which the benefits would or might be reduced if respondent's parental rights were terminated. Moreover, other evidence, including results of psychological evaluations of the children, established that the children needed finality in the form of elimination of contact with respondent. The trial court's conclusion that the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests was not clearly erroneous. MCL 712A.19b(5).

Affirmed.

/s/ Bill Schuette
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher

² Respondent pleaded guilty to one count of criminal sexual conduct in the first degree, MCL 750.520b, and one count of child sexually abusive material, MCL 750.145c(2). Respondent was sentenced to concurrent prison terms of 11 years, three months to 40 years and six years, three months to 20 years for these offenses.