3STATE OF MICHIGAN

COURT OF APPEALS

In re RAMOS-PELAYO/MENA-CALDERON, Minors.

UNPUBLISHED
May 24, 2016

No. 329843
Wayne Circuit Court
Family Division
LC No. 15-520542-NA

Before: OWENS, P.J., and BORRELLO and STEPHENS, JJ.

PER CURIAM.

Respondent appeals as of right a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(*i*), (g), (h), (j), (k)(*ii*), and (n)(*i*). We affirm.

Respondent is the stepfather of LC, the legal and biological father of MRP, and the legal father of EMC. In March 2015, respondent was convicted of first-degree criminal sexual conduct, MCL 750.520b(1)(b), for sexually abusing LC. He was also convicted of a separate count of possession of child sexually abusive material, MCL 750.145c(4). In August 2015, respondent was sentenced to a prison term of 12 to 20 years for his criminal sexual conduct conviction. Following a combined jurisdictional and dispositional hearing, the trial court found that it had jurisdiction over the children, that statutory grounds for termination had been established, and that termination of respondent's parental rights was in the children's best interests.

On appeal, respondent challenges only the trial court's best-interest decision as to MRP.[1] We review a trial court's decision regarding a child's best interests for clear error. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014); MCR 3.977(K).

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not

[1] Respondent has arguably waived any claim of error regarding the termination of his parental rights to EMC because he did not oppose termination of his parental rights to that child in the trial court. See *People v Carter*, 462 Mich 206, 214; 612 NW2d 144 (2000); *McClain v Univ of Mich Bd of Regents*, 256 Mich App 492, 494-495 n 2; 665 NW2d 484 (2003).

be made." MCL 712A.19b(5). Whether termination is in the child's best interests is determined by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). If parental rights to more than one child are at stake and the best interests of the individual children differ significantly, the trial court must decide the best interests of each child individually. *In re White*, 303 Mich App at 715; *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). In deciding whether termination is in the child's best interests, the court may consider a variety of factors, including the parent's history of mental health issues, *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001); the child's bond to the parent, *In re BZ,* 264 Mich App 286, 301; 690 NW2d 505 (2004); the parent's visitation history with the child, *In re White*, 303 Mich App at 714; and the child's safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011).

Respondent first argues that the trial court failed to consider the bond between respondent and MRP in finding that termination was in MRP's best interests. We agree with respondent that the court did not consider the bond. However, it did not do so because there was no testimony from either the Children's Protective Services (CPS) worker or from respondent regarding any parental bond respondent had with MRP. The failure of respondent, who claims there to be a sustained and deep bond between himself and the child, to present any such evidence is not an error attributable to the court.

Respondent next claims that the court failed to make separate findings as to each child. Indeed, it did not do so nor under these circumstances was it required to do so. Instead, the record reveals that the court considered evidence concerning MRP's safety and well-being and did not find that the danger to him was substantially different from the danger to his assaulted step-sister. *In re VanDalen*, 293 Mich App at 142. In noting that the abuse of LC was probative of danger to MRP, the court reasoned, "You can't treat one child differently than the other. Just as did the [respondent] sexually abuse his step-daughter and he – we can quite reasonably assume that he'd do the same to both of his other children." This Court has consistently recognized that "[h]ow a parent treats one child is certainly probative of how that parent may treat other children." *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973). See also *In re Dittrick Infant*, 80 Mich App 219, 222; 263 NW2d 37 (1977); *In re Powers*, 208 Mich App 582, 592; 528 NW2d 799 (1995); *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001). Both children are similarly situated in that they require protection from abuse by respondent. The fact that defendant's incarceration would likely end after MRP reached adulthood has no bearing on the need to protect the minor MRP nor ultimately on what is in his best interests. The trial court did not clearly err in finding that termination of respondent's parental rights was in MRP's best interests. See *In re Hudson,* 294 Mich App 261, 268; 817 NW2d 115 (2011), and *In re Jenks,* 281 Mich App 514, 519; 760 NW2d 297 (2008).

Affirmed.

/s/ Donald S. Owens
/s/ Stephen L. Borrello
/s/ Cynthia Diane Stephens