

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
April 19, 2012

In the Matter of C. A. MILLER, Minor.

No. 307151
Monroe Circuit Court
Family Division
LC No. 11-022053-NA

Before: M. J. KELLY, P.J., and FITZGERALD and DONOFRIO, JJ.

PER CURIAM.

Respondent J. Miller appeals by right the circuit court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii). Because there were no errors warranting relief, we affirm.

Respondent began sexually abusing his 14-year-old stepdaughter in December 2008. After the abuse was discovered, respondent was charged with three counts of first-degree criminal sexual conduct. Respondent pleaded guilty to one count in exchange for the dismissal of the remaining counts and the trial court sentenced him in July 2011 to serve 5 to 25 years in prison. Following a hearing in September 2011, the trial court terminated respondent's parental rights to the child at issue, but declined to terminate his parental rights to two other children. On appeal, respondent argues that the trial court erred in finding that termination of his parental rights was in the child's best interests.

This Court reviews a trial court's decision regarding a child's best interests for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

As the trial court found, respondent believed it was appropriate to engage in sex with a minor as long as he did not "force" her. When respondent becomes eligible for parole, this child will be close to the same age that her half-sister was when she was molested. Respondent also does not appreciate how his actions might affect his children's future welfare by choosing to engage in criminal conduct, while knowing that it was wrong and could lead to his arrest and imprisonment. Given the evidence, we cannot conclude that the trial court clearly erred in finding that termination of respondent's parental rights was in the child's best interests despite the bond that she has with respondent. See *In re Hudson/Sword*, 294 Mich App 261; ___ NW2d ___ (2011).

Respondent also contends that the trial court erred by failing to expressly consider that the child had been placed with a relative. When a child has been removed from her home and placed with relatives, that placement “weighs against termination under MCL 712A.19a(6)(a).” *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). If the child is still living with relatives when the case proceeds to termination, that is a factor to be considered in determining whether termination is in the child’s best interests. *Id.* The record should show that the trial court considered a child’s placement with relatives in making its best-interests determination. *In re Mays*, 490 Mich 993, 994; 807 NW2d 307 (2012); *In re Mays*, 490 Mich 997; 807 NW2d 304 (2012). In this case, the child was not removed from her home and placed with relatives. She remained in her home with her mother. Further, because respondent is a sex offender who presents a risk of harm to girls, termination would be appropriate in this case even though the child remained with her mother because the mother equivocated regarding the possibility of future unsupervised contact between respondent and his daughter.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Kelly
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio