

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-2937

A.P., SR., Father of A.P., Jr. and
A.F.-P., Minor Children,

Appellant,

v.

DEPARTMENT OF CHILDREN AND
FAMILIES,

Appellee.

On appeal from the Circuit Court for Alachua County.
James P. Nilon, Judge.

December 18, 2018

PER CURIAM.

Appellant, A.P., Sr., appeals an order terminating his parental rights pursuant to sections 39.806(1)(c) and (1)(f), Florida Statutes (2017). Appellant argues that the trial court erred in basing the termination in part upon section 39.806(1)(c),¹ that

¹ Section 39.806(1)(c) provides a ground for termination when a parent “engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety, well-being, or physical, mental, or emotional health of

section 39.806(1)(f)² is unconstitutional because the Legislature eliminated the proof-of-nexus requirement in a 2014 amendment, and that termination was not in the children’s manifest best interests. We find no merit in Appellant’s challenge to the trial court’s application of section 39.806(1)(c) in terminating his rights or in his best interests argument. Given such, we decline to address Appellant’s constitutional challenge to section 39.806(1)(f). *See In re Holder*, 945 So. 2d 1130, 1133 (Fla. 2006) (explaining that courts are to avoid considering a constitutional question when the case can be decided on non-constitutional grounds); *Overstreet v. Overstreet*, 244 So. 3d 1182, 1184 (Fla. 1st DCA 2018) (“The law requires us to refrain from reaching constitutional questions if we can resolve the case on other grounds.”); *J.F. v. Dep’t of Children & Families*, 198 So. 3d 706, 708 (Fla. 2d DCA 2016) (“As a result of our conclusion as to this ground [section 39.806(1)(c)], we do not need to determine whether termination was authorized under section 39.806(1)(f).”).

Accordingly, we affirm the order terminating Appellant’s parental rights.

AFFIRMED.

WOLF, LEWIS, and WETHERELL, JJ., concur.

the child irrespective of the provision of services.” § 39.806(1)(c), Fla. Stat. (2017).

² Section 39.806(1)(f) provides a ground for termination when a parent “engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child’s sibling.” § 39.806(1)(f), Fla. Stat. (2017). In 2014, the Legislature amended the statute to include the language “[p]roof of a nexus between egregious conduct to a child and the potential harm to the child’s sibling is not required.” Ch. 14-224, § 19, Laws of Fla. (2014).

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Susan Barber, Assistant Regional Conflict Counsel, Tallahassee, and Crystal M. Frusciante, Sunrise, for Appellant.

Ward L. Metzger of Department of Children and Families, Jacksonville, for Appellee.