STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of KARA NIKOLE BROOK and KEEGAN NICKOLAS BROOK, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STEVEN M. BROOK,

Respondent-Appellant.

UNPUBLISHED
June 25, 2009

No. 286673
Oakland Circuit Court
Family Division
LC No. 07-734792-NA

Before: Wilder, P.J., and Meter and Servitto, JJ.

PER CURIAM.

Respondent appeals as of right from an order that terminated his parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (g), and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

In 2008, respondent pleaded no contest to felony charges of child sexually abusive activity and fourth-degree criminal sexual conduct. The conviction for the former offense arose when 21 photographs were found in a photo album inside respondent's home; some of these depicted a young girl in compromising poses, with respondent's son Kyle sleeping next to her.[1] In one photograph, respondent's hand pulled aside the girl's underwear and revealed her vaginal area. The pictures were probably taken sometime in 1996 when Kyle would have been six years old. The second conviction was the result of allegations that respondent's cousin made against him for sexual molestations that occurred in 2001 and 2002. On one occasion, respondent rubbed her stomach and unzipped her pants while she was sleeping. Another time, respondent placed his hand down her shirt and fondled her breasts.

On the same date that respondent pleaded no contest in the felony cases, he also pleaded no contest to the allegations in an amended petition seeking termination of his parental rights.

[1] Kyle was originally named in the petition but was removed when he reached the age of majority.

Therefore, the issue on appeal is whether the trial court erred in finding that termination of respondent's parental rights was not clearly contrary to the children's best interests. MCL 712A.19b(5);[2] *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). Respondent argues that, before these criminal allegations, he was a model father, providing both financial and emotional support to his children. He claims that the children's mother was responsible for parental alienation, and that the trial court clearly erred in finding that termination was not clearly contrary to the children's best interests. We disagree.

It is clear that the trial court was aware of the mother's behavior and took that into consideration when rendering its decision. The simple fact was that respondent was a convicted child molester and owner of child pornography. Respondent pleaded no contest to these criminal charges, and the termination trial was not the forum for re-litigating the underlying facts and allegations. Because respondent refused to accept any responsibility for his behavior, he was not amenable to treatment. Without treatment, respondent remained a threat to his children. The trial court was well within its right, therefore, in finding that termination of respondent's parental rights was not clearly contrary to the children's best interests.

Respondent next argues that he was denied the effective assistance of counsel, primarily because counsel urged him to plead no contest to the allegations in the termination petition. Because respondent failed to file a motion for new trial or request a hearing in the trial court, our review of this issue is limited to mistakes apparent on the record. *People v Davis*, 250 Mich App 357, 368; 649 NW2d 94 (2002).

The record reveals that respondent's plea was knowingly and voluntarily made. He acknowledged that nothing induced him to plead as he did. Respondent's claim that counsel advised that he would get his children back sooner if he pleaded no contest and that subsection 19b(3)(b)(i) would be removed from the petition is not supported by the record. In fact, it seems implausible that counsel would render such advice. Respondent was warned that the trial court *would* terminate his rights unless it found that termination was not in the children's best interests. The prosecutor also clearly stated that nothing in the petition would be changed. Because there is nothing apparent on the record that respondent's plea was anything other than voluntarily made, respondent was not denied the effective assistance of counsel.

Respondent also claims that counsel was ineffective during the best interests hearing, but respondent's brief is sorely lacking on these points. Respondent provides nothing but bulleted items, without proper arguments or references to case law. Respondent may not simply state his position and leave it to this Court to discover a basis for his claim. *Badiee v Brighton Area Schools*, 265 Mich App 343, 357; 695 NW2d 521 (2005). Nevertheless, we have reviewed each point and find them to be without merit.

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[2] We are resolving this case using the version of MCL 712A.19b(5) that existed before its amendment, effective July 11, 2008. Although the order terminating respondent's parental rights was not received for filing until July 15, 2008, the trial court made its findings on the record at the July 3, 2008, best interests hearing and signed the order terminating respondent's parental rights on July 7, 2008.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Patrick M. Meter
/s/ Deborah A. Servitto