

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* K. HARMON, Minor.

UNPUBLISHED  
October 22, 2015

No. 326895  
Kent Circuit Court  
Family Division  
LC No. 13-051091-NA

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Before: TALBOT, C.J., and BECKERING and GADOLA, JJ.

PER CURIAM.

Respondent-father appeals as of right from an order terminating his parental rights to his minor daughter based on his voluntary release of those rights.<sup>1</sup> We affirm.

Respondent-father's sole argument on appeal is that termination of his parental rights was not in the best interests of his daughter. Generally, the trial court must find by a preponderance of the evidence that termination is in a child's best interest. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). We review a trial court's best-interest determination for clear error. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In this case, however, the trial court did not make any explicit findings regarding the child's best interests because respondent-father consented to termination. When a respondent consents to termination of his parental rights, the trial court is not required to articulate a statutory basis supporting termination. *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992). We see no reason why a trial court would be required to articulate a best-interest finding under the same circumstances.

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<sup>1</sup> Respondent-father states that he released his parental rights pursuant to MCL 710.29(7), which required the court to make a best-interest determination. However, respondent-father voluntarily released his parental rights under the Juvenile Code, MCL 712A.1 *et seq.*, not under the Adoption Code, MCL 710.21 *et seq.* The distinction is that under the Adoption Code, a parent voluntarily initiates proceedings while under the Juvenile Code, the state acts as the initiator. *In re Jackson*, 115 Mich App 40, 51; 320 NW2d 285 (1982). Although the Juvenile Code does not contain a provision governing the voluntary release of parental rights, a parent may consent to termination under the Juvenile Code by admitting that there exists a statutory basis for termination and that termination is in the best interests of the child. *In re Toler*, 193 Mich App 474, 477-478; 484 NW2d 672 (1992). Parental consent does not transfer the proceeding from the Juvenile Code to the Adoption Code. *Id.* at 478.

Further, respondent-father admitted in his plea colloquy and in a signed amendment to the termination petition that he had reached the “difficult and loving conclusion” that termination of his parental rights was in his daughter’s best interests. Because “[a] party may not take a position in the trial court and subsequently seek redress in an appellate court that is based on a position contrary to that taken in the trial court,” respondent-father’s best-interest argument is waived on appeal. *Holmes v Holmes*, 281 Mich App 575, 587-588; 760 NW2d 300 (2008) (citation and quotation marks omitted). Therefore, respondent-father is not entitled to reversal of the order terminating his parental rights.

Affirmed.

/s/ Michael J. Talbot  
/s/ Jane M. Beckering  
/s/ Michael F. Gadola