

STATE OF MICHIGAN
COURT OF APPEALS

In re L. K. RUFFIN, Minor.

UNPUBLISHED
March 16, 2017

No. 334126
Wayne Circuit Court
Family Division
LC No. 15-521384-NA

Before: HOEKSTRA, P.J., and JANSEN and SAAD, JJ.

PER CURIAM.

Respondent-mother appeals the trial court's order that terminated her parental rights to the minor child, LR, pursuant to MCL 712A.19b(3)(j). For the reasons provided below, we affirm.

After she gave birth to LR, respondent met and married TL, and became the stepmother to his children, ML and AL. After TL was incarcerated and his children became court wards, respondent became their foster mother. While the children were in her custody, respondent engaged in a sexual relationship with ML, who was under the age of 16. During a subsequent criminal investigation, respondent admitted to engaging in oral sex and intercourse with ML. She subsequently pleaded no contest to third-degree criminal sexual conduct, MCL 750.520d(1)(a), and was sentenced to 1 to 15 years in prison.

Petitioner initiated proceedings to terminate respondent's parental rights to LR, who was placed with her father. Respondent pleaded no contest to the allegations in the petition for purposes of establishing both jurisdiction and the existence of a statutory ground for termination. The trial court found that it had jurisdiction over the child pursuant to MCL 712A.2(b)(2) and that respondent's conduct established a basis for termination of parental rights pursuant to MCL 712A.19b(3)(j). The trial court conducted a dispositional hearing at which respondent first testified that she did not have sexual relations with ML and then testified that ML had raped her. Following the hearing, the trial court determined that termination of respondent's parental rights was in LR's best interests.

On appeal, respondent challenges the trial court's finding that termination of her parental rights is in the best interests of the child. We review the trial court's decision regarding the child's best interests for clear error. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014); 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).

“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 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). In deciding whether termination is in the child’s best interests, the trial court may consider a variety of factors, such as the parent’s parenting ability, *In re Jones*, 286 Mich App 126, 129-130; 777 NW2d 728 (2009); the child’s bond to the parent, *In re White*, 303 Mich App at 713; the parent’s criminal history, *In re LE*, 278 Mich App 1, 25; 747 NW2d 883 (2008); the parent’s history of child abuse, *In re Powers*, 244 Mich App 111, 120; 624 NW2d 472 (2000); and the child’s safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011).

Respondent mistakenly asserts, and the trial court likewise erred to the extent it believed, that the child’s placement with her father weighed against termination.¹ However, this error inured to the benefit of respondent and, therefore, was harmless because it does not undermine the validity of the trial court’s best-interest determination. MCR 2.613(A). The trial court recognized the “obviously difficult issues between the mother and father,” a situation that was relevant to respondent’s parenting ability. The evidence showed that the child was bonded to her father and that respondent tried to undermine that bond by urging the child to falsely accuse her father of physical abuse. The trial court also recognized the serious implications of respondent’s sexual abuse of ML, which weighed in favor of termination despite the fact that nobody could say that respondent was likely to sexually abuse her own child. When respondent chose to engage in a sexual relationship with an unrelated, underage child, she placed her own needs above those of her own child, whose environmental and emotional stability were adversely affected when respondent’s criminal behavior led to her removal from the family home. In addition, the fact that respondent preyed upon a child entrusted to her care and then failed to accept responsibility for the consequences, by blaming that child, showed that respondent could not be expected to place her own child’s needs above her own in order to ensure the child’s safety and welfare. The need to protect the child outweighed preservation of the parent/child bond. Therefore, the trial court did not clearly err when it found that termination was in the best interest of LR.

¹ “[A] child’s placement with relatives weighs against termination,” *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010), and if a child is living with a relative when the case proceeds to termination, the trial court must “explicitly address whether termination is appropriate in light of the children’s placement with relatives” in making its best-interests determination. *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d 144 (2012). The relative-placement factor is derived from MCL 712A.19a(6)(a), *In re Mason*, 486 Mich at 164, which defines a “relative” as someone other than a parent. But because LR was placed with her father, relative placement was not a relevant consideration. *In re Schadler*, ___ Mich App ___; ___ NW2d ___ (2016) (Docket No. 327977), slip op, p 3.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Kathleen Jansen
/s/ Henry William Saad