

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* C. H. NICHOLS, Minor.

UNPUBLISHED  
December 18, 2018

No. 344526  
Washtenaw Circuit Court  
Family Division  
LC No. 17-000137-NA

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Before: SWARTZLE, P.J., and SAWYER and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to his minor child under MCL 712A.19b(3)(b)(i), (b)(ii), (b)(iii), (g), (j), (k)(ii), and (k)(ix). We affirm.

On appeal, respondent first argues that the trial court erred by concluding that MCL 712A.19b(3)(j) supported termination of his parental rights. In this case, respondent pleaded no contest to the existence of the statutory grounds for termination stated in the petition, which included MCL 712A.19b(3)(j). Respondent does not argue that this plea was not accurate or that it was not knowingly, understandingly, or voluntarily made. Accordingly, respondent has waived any challenge to the statutory grounds supporting the termination of his parental rights. See *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011).

Next, respondent argues that termination of his parental rights was not in the child’s best interests. We review for clear error the trial court’s decision regarding the child’s best interest. *In re Trejo*, 462 Mich 341, 356–357; 612 NW2d 407 (2000); see also 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).

The evidence in this case speaks for itself. At the time of her removal from respondent’s care, the child at issue, CN, was a few months shy of three years old. CN was respondent’s only biological child. CN’s mother, however, had three other children, including a 12-year-old daughter with autism, LS. LS was nonverbal and could not care for herself. Indeed, the child wore a diaper and required parental help when changing her clothes. Respondent and mother worked different schedules, which meant that respondent cared for the children alone for substantial periods of time.

One night, respondent came home from work intoxicated and continued to drink at home, staying up after all of his family members went to bed. Respondent described the events that took place that night as follows: After everyone in the home was upstairs, respondent went upstairs into the bedroom that LS shared with another sibling and signaled for LS to go downstairs. She followed his direction, and he led her down the stairs into the living room. Respondent then sat on the couch and took off LS's pull-up diaper. Respondent began masturbating while he put his fingers inside LS's vagina. Then, he had her sit on his lap, facing away from him, while he put his penis in LS's vagina. According to respondent, LS displayed no emotion during the incident. When respondent was finished assaulting the child, he nudged LS and indicated that she should go back upstairs. Respondent did not know why he assaulted the child, but stated that he was frustrated that he had not had sex with mother recently.

The next morning, mother noticed that LS was not wearing her diaper, despite the fact that LS could not take the diaper off by herself. Mother then found the diaper in the kitchen trash can with respondent's pajama bottoms. Mother then inspected LS and discovered an unusual vaginal discharge. Suspecting abuse, mother had LS examined by a doctor, who found a tear consistent with child sexual abuse. Mother refused to allow respondent to return to the home and respondent eventually pleaded guilty to first-degree criminal sexual conduct, for which he was sentenced to 12 to 30 years of imprisonment. Mother testified at the termination trial that respondent was bonded to CN, but that she would never feel comfortable with respondent having unsupervised parenting time. A caseworker testified that, at the time of respondent's earliest release, CN would be at the vulnerable age of 15 years old. The caseworker was concerned for CN's safety in the event of respondent's release.

The record clearly demonstrates that termination was in CN's best interests. Respondent sexually abuse CN's half-sister who suffered from a mental impairment. Respondent's only explanation for the abuse was that he had not had sex in a while. Thus, we agree with the trial court's finding that respondent "violated the most basic responsibility of trust for a minor who could not defend or speak for herself" and that there was "no value in maintaining the illusion that [respondent] should have rights to vulnerable children." In other words, respondent has not "demonstrate[d] any parenting ability that is worth preserving." For these and the other reasons provided by the trial court, we affirm termination of respondent's parental rights to CN.

Affirmed.

/s/ Brock A. Swartzle  
/s/ David H. Sawyer  
/s/ Amy Ronayne Krause