

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 2, 2010

In the Matter of T. L. CRAWFORD, Minor.

No. 296266
Midland Circuit Court
Family Division
LC No. 09-003497-NA

Before: WILDER, P.J., and CAVANAGH and SAAD, JJ.

PER CURIAM.

Respondent father appeals as of right from a trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (b)(iii), and (k)(ii).¹ We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been met by clear and convincing evidence and that termination is in the best interests of the child. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller*, 433 Mich at 337.

Contrary to respondent's claim on appeal, the trial court did not clearly err when it found that clear and convincing evidence existed to support termination of respondent's parental rights under MCL 712A.19b(3)(b)(i) and MCL 712A.19b(3)(k)(ii). The record demonstrates respondent's extensive history of impropriety with children. Respondent committed sexual abuse involving penetration against T. L.'s half-sister, which spurred the instant petition. Respondent also gave one of T. L.'s other half-sisters a black eye and violated a no-contact order entered by the trial court in another case with other children. This Court has long recognized that abuse of one child is probative of a parent's proclivity to abuse other children. *In re Parshall*,

¹ The parental rights of the child's mother were not terminated and she is not a party to this appeal.

159 Mich App 683, 689; 406 NW2d 913 (1987); *In re Youmans*, 156 Mich App 679, 689; 401 NW2d 905 (1986); *In re Dittrick Infant*, 80 Mich App 219, 222; 263 NW2d 37 (1977); *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973). Although respondent claims the sexual abuse of T.L.'s half-sister was a one-time occurrence, there is no assurance, aside from respondent's self-serving testimony, that T. L. would be safe with him. The trial court could properly consider more credible the opinion of CPS worker, Jessica Tokar that T. L. is likely to suffer abuse in the future if placed in respondent's home.

The trial court erred in finding that evidence existed to support termination of respondent's parental rights under MCL 712A.19b(3)(b)(iii). MCL 712A.19b(3)(b)(i) and MCL 712A.19b(3)(b)(iii) are meant to apply in different situations. MCL 712A.19b(3)(b)(i) applies where a parent perpetrated the abuse and MCL 712A.19b(3)(b)(iii) applies where a nonparent was the perpetrator. Respondent cannot be both the parent of T. L. and a nonparent. The erroneous termination of parental rights under one statutory basis for termination can be harmless error if the court also properly found another ground for termination. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000). In this case, the trial court correctly terminated respondent's parental rights pursuant to MCL 712A.19b(3)(b)(i) and (k)(ii). Therefore, the erroneous termination pursuant to MCL 712A.19b(3)(b)(iii) was harmless error.

Last, respondent argues that termination of his parental rights was not in T.L.'s best interests. We disagree. The record shows that respondent treated T.L.'s half-sister like his own daughter, but nevertheless used drugs with her and sexually abused her. Moreover, respondent blamed T.L.'s half-sister for these incidents. Consequently, the trial court found that respondent failed to understand and respect boundaries, was dangerous, and would likely perpetrate again.

Respondent maintains that the trial court could not make a best interests determination without hearing testimony from T.L.'s counselor or another worker regarding the anticipated effect of termination on T.L. Although respondent testified that he had bonded with T.L. and had not sexually abused her, respondent has not offered any evidence, such as proof of emotional harm, which would outweigh the determination that termination was in T.L.'s best interests because of the risk of abuse to her. Therefore, the trial court did not clearly err in its best interests determination.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Mark J. Cavanagh
/s/ Henry William Saad