

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 19, 2012

In the Matter of SUGRIM, Minors.

No. 307461
Kalamazoo Circuit Court
Family Division
LC No. 2011-000166-NA

Before: SHAPIRO, P.J., and HOEKSTRA and WHITBECK, JJ.

PER CURIAM.

Respondent B.B. Sugrim (Sugrim) appeals as of right the order terminating his parental rights to his minor children, SS and CS, under MCL 712A.19b(3)(b)(i), (g), (h), (j), and (k)(iii). We affirm.

I. FACTS

In June 2011, Sugrim pleaded no contest to assault with intent to commit great bodily harm against his daughter, SS, stemming from an incident that occurred in May 2011. The trial court sentenced him to serve 56 to 120 months in prison. Following his plea, a jury trial was held in November 2011, to determine whether the trial court had jurisdiction pursuant to MCL 712A.2(b).

A. JURISDICTIONAL TRIAL

On May 16, 2011, sometime between 5:45 p.m. and 6:15 p.m. one of Sugrim's neighbors encountered SS outside her home. The neighbor described SS as horrified. According to the neighbor, SS said that her father was going to come after her and she was concerned about her mother and brother. In light of SS's claims and behavior, the neighbor called 911.

Kalamazoo County Sheriff's Department Deputy Christopher Hoffman testified that he received a call around 6:44 p.m. that a young girl had been found in the caller's yard, claiming to be abused by her parents. Deputy Hoffman testified that, when he arrived, SS was very shook up, emotional, crying, and complaining of several injuries. She told him that her arm hurt very badly. He testified that when he said he was going to take her to her parents, she did not want to go and claimed that she would be killed. Deputy Hoffman testified that later, after the ambulance personnel cut off her clothing to see her injuries, he saw that SS's back was badly bruised.

Deputy Hoffman further testified that when he saw Sugrim at the hospital later, he was able to stand on his own and seemed to understand what Deputy Hoffman told him. Similarly, Kalamazoo County Sheriff's Department Deputy Mark Caley testified that when he interacted with Sugrim at Sugrim's home, Sugrim's behavior was odd but his stance and communication seemed normal. Deputy Caley further testified that Sugrim denied that anything had happened, but on the basis of his interactions and conversations with the children and Sugrim's wife, B. Sugrim, Deputy Caley placed Sugrim under arrest.

Deputy Hoffman took photographs of the scene and SS. The trial court admitted the photographs over Sugrim's objection. Some of the photographs depicted items found in the area, including a blue baton, others depicted bruises covering a child's back, arm, and legs, and a sad looking young girl. Deputy Hoffman testified that he found the baton in a crevice above the garage and a belt on the garage floor; both were also admitted as evidence.

Emergency room physician Ernest Spirito testified that he observed significant bruising on SS's arm, back, legs, and both buttocks. Dr. Spirito testified that he did not know how many times SS had been hit and agreed that it could have been more than 50. Dr. Spirito said that SS had bruises on the outside of her arm and swelling that was frequently seen on people hit with a police baton. Although Dr. Spirito suspected that SS's arm was broken because of the swelling, x-rays showed it was not. He agreed that her arm injury was consistent with her holding up her arm to defend herself and said the other injuries were also consistent with being hit by a blunt object. He said that the information she and her brother provided was consistent with the injuries. He testified that he asked whether it happened before, and the children said it had; however, a bone survey did not reveal any evidence of old injuries. SS was given IV morphine and admitted to the hospital for pain control.

B. Sugrim testified that on the morning of May 16, 2011, she drove Sugrim home from outpatient surgery on his nose. She testified that he was coherent, carried on a conversation all the way home, and walked inside without help. She said she left him on the couch, went out to the pharmacy to pick up his Tylenol with codeine prescription, set it on the table next to the couch where he was asleep when she arrived home, and drove back to work at about 12:30 p.m. She testified that she did not give him any Tylenol pills. She did not know his pain level but said that he was not complaining and seemed fine.

B. Sugrim testified that, when she arrived home at about 5:30 p.m., Sugrim and their son were outside boxing like they usually did on Monday nights. She said that Sugrim was acting normally. However, she saw SS in the garage strapped on top of their dog with a belt. B. Sugrim said SS looked terrified, had tears in her eyes, and asked for help. She said SS's arm was bruised, and she thought it was from a belt. B. Sugrim testified that she tried whispering to find out what happened, and SS whispered she had tried to make the dog submit but could not. B. Sugrim explained that "submitting the dog" meant making the 100-pound German Shepherd lie on its back with SS above it. B. Sugrim said that Sugrim told her in a threatening voice not to get involved because SS was being punished for not submitting the dog.

B. Sugrim testified that Sugrim told them that SS was "gonna learn to submit the f--king dog before the night is through or I will kill her or—and the dog, or all of you." She testified that she thought he was serious because he was angry enough, had hurt them before, and had

threatened to kill them many times. B. Sugrim said SS tried to submit the dog, but it just wanted to run out of the garage, so Sugrim beat SS with the blue baton between boxing rounds with her and CS. B. Sugrim testified that at one point SS ran out of the garage after the dog, but Sugrim grabbed her shirt, dragged her into the garage, told her if the neighbors heard her he would kill her, threw her on the cement floor, continued hitting her with the baton and yelling that she needed to submit the dog, and threw her against the garage wall, where she banged her head.

B. Sugrim testified that when she tried to talk to SS, Sugrim interrupted, put his hand on B. Sugrim's neck, and said he would kill her. She testified that, based on past experience, she knew he would hit SS worse if she tried to interrupt.

B. Sugrim testified that, when SS ran out of the garage again, she kept him boxing another round before he realized SS was gone. She said she was terrified of how bad he would hit SS when he found her. She testified that, when the police car pulled up, she was terrified because the police were never involved before and she knew that, if the police left, it would be worse. She said Sugrim threw the baton above the garage door and told her and CS to act normal when he heard the car coming. B. Sugrim testified that Sugrim hit SS 75 to 100 times that day.

B. Sugrim testified that she had a clear recollection of her life with Sugrim. She said this was not Sugrim's first act of violence, and he always hit the back, arms, and legs where people might not see. She testified that, at first, he just screamed, called them bad names, and said he wanted to kill them, but things got progressively worse from throwing things and making holes in the wall to eventually hitting them. She said that there was an outburst about every 10 days, about trivial things. She testified that Sugrim would hit the children with a belt or other item three or more times with full force. She said that she thought about taking the children away many times, but she knew he would find them and keep the children from her or kill her or her family. She testified that she treated the children at home when their injuries might raise questions at the pediatrician's. She said they told the children that, if they said anything at school or outside the family, they would be taken away.

B. Sugrim testified that she had a heart attack in October 2009, which she attributed to stress. She did not remember the two-hour drive to the airport, where the heart attack occurred, or anything else until she woke up in the hospital four days later. However, she said she remembered everything after that. She admitted that she lost oxygen to her brain and did not know for how long. But she said that there was no recommendation that she follow up with a neurologist or any suggestion that she had memory issues.

Sugrim testified regarding his recollection, or lack thereof, of the events that occurred on May 16, 2011. He claimed that he did not remember hitting SS on May 16, 2011, but he knew it happened. He explained that he had outpatient surgery that morning for a deviated septum. He said he received general anesthetic and IV pain killer, was restrained by a nurse because he came out of the anesthetic woozy, and he was given two Percocet. Although he testified that his memory was very hazy, he said that after he got home B. Sugrim gave him three Tylenols, put him on the couch to sleep, and went back to work. He said he that vaguely remembered the children coming home. He testified that the photographs were horrifying to a father who never abused his children before, and there was no excuse. He said he believed he was on autopilot.

Sugrim testified that his memories of the day were mostly from what he read in the police report, and he did not remember being questioned at the house. Sugrim described the day as a “bad dream.” He said he never lied; he told the truth as he remembered it. He testified that he pleaded no contest to the charges because he thought he should be a man and own up to it, rather than traumatizing the children further by making them testify.

Sugrim testified that he had 25 years of athletic training, doing boxing, kick boxing, and jujitsu. Sugrim said he had coached and owned a martial arts club and had been doing scenario-based training with his wife and children once a week for several years. Sugrim testified that the blue baton was a Kali training stick, a light piece of PVC quarter inch pipe covered with foam. He said that it was fairly light.

Sugrim also testified that he recalled six disciplinary incidents since B. Sugrim’s heart attack; however, he claimed that her testimony exaggerated the actual events. He explained that her “confabulation” was built around legitimate factual basis, but he never swatted more than three or four times on the backside with a belt. Sugrim said they followed family protocol, with B. Sugrim as judge and him carrying out the discipline. When he was asked whether he struck the children, he said “a proper, fairly administered discipline, yes, we have done that.”

Sugrim testified that he saw pronounced changes in B. Sugrim after the heart attack. He said that she had bad dreams and recovered memories and blended a lot of memories. Sugrim said his wife alleged 832 incidents of abuse and all were nonexistent except May 16, 2011.

Child protective services worker Lindsey Wagner testified that she interviewed each child separately at the hospital. She said SS was tearful and flinched with pain when she moved, but she looked Wagner right in the eye and was very articulate. Wagner testified that CS said he got along really well with his dad and liked his brilliant ideas but, when asked what he did not like, CS said when Sugrim yelled or got really mad. She said CS told her SS was supposed to be submitting the dog but was undoing all the dog’s teaching, so Sugrim got very mad and beat her 50 to 75 times on the shoulders, back, legs, and arms with the baton. Wagner testified that CS said their mother tried to intervene but Sugrim told her to stay out of it. She said CS reported their father occasionally taught them a lesson by beating them with a belt, but never before with the baton.

Wagner testified further that she visited Sugrim in jail on May 18, 2011, and he agreed he knew why he was there. She said he told her he spanked SS with the baton half a dozen times. Wagner said he declined to change his story about the number of times and told her he had nothing else he wanted to share.

The jury found that one or more statutory grounds for jurisdiction had been proven. The trial court, therefore, took jurisdiction and held a dispositional hearing the next day.

B. DISPOSITIONAL HEARING

At the dispositional hearing, psychologist and director of Southwest Michigan’s Trauma Assessment Center James Henry testified regarding the Child Trauma Assessment (CTAC) conducted on both children in June 2011, and July 2011. Dr. Henry met the children and observed the assessments through a one-way mirror. He said SS initially feared meeting him and

going with the assessor, but she eventually participated. He said she was very intelligent and on target neurodevelopmentally, although she had some issues regarding engagement and attention, which he attributed to trauma. He testified that SS was hyper vigilant, always watching to ensure her safety and picking up on cues most children would not, which he said was an outcome of trauma. He said SS also shut down when stressed and had a high need for perfection and affirmation, given the experiences with her father she described. He opined that she had the signs of a severely traumatic past.

Dr. Henry testified that one of the most frightening things about the history SS described was the long-term nature, the years of being afraid of physical harm and emotional abuse if she did not get things right. He testified that SS said her mother saved her but, underneath, SS felt her mother did not save her because she still experienced it. He said this was confusing for children. He testified that SS was terrorized, and this significantly affected the way she viewed the world and herself; her primary coping mechanism was leaving the present and disassociating.

Dr. Henry strongly recommended terminating Sugrim's rights, because knowing he could not have her back would start the psychological process of severing their relationship. He opined that any contact would retrigger her tremendous fear and compromise her future development, and she would continue to live in terror if there was a possibility of contact.

Dr. Henry testified that CS was extremely intelligent and was engaging. He said CS disengaged from his feelings of loss and fear, stayed in his head, and was hyper vigilant. Dr. Henry said things triggered continuing intrusive thoughts about what happened to him and his sister and mother, which compromised his ability to use his intelligence and relational experience and put him at risk for aggression and acting out. He said CS strongly identified with his father, wanted to be like him in some ways, and shared some very positive things with him, but he was also terrorized by him. Dr. Henry said it was extremely confusing for CS, as he switched between seeing Sugrim as a hero and as evil and tried to make sense of it.

Dr. Henry opined that termination was also in CS's best interests, because it would begin the process of grieving and begin breaking the trauma bond. He explained that the trauma bond was CS's relationship with his father that involved both need and terror. He said CS had well-defined posttraumatic stress disorder, and he believed SS had it as well, even though her scores were lower. Dr. Henry opined that CS would not recover emotionally if he had continued contact with Sugrim because he would be re-exposed to the trauma bond. He opined that both children's long-term trajectory was poor if Sugrim's rights were not terminated. He opined further that they would likely recover if his rights were terminated because of their intelligence and their relationship with their mother.

Counselor Jennifer Lennen testified that she had about 12 sessions with each child individually since June 2011, focusing on family trauma. Lennen testified that CS was guarded and told her there were good things about the family. She said he struggled with a desire to be loyal to his father and knowledge that it was not safe for him if his father was out of jail. Lennen said CS consistently picked out items to represent Sugrim, including an ogre monster with a sword and a monster with a tie. She testified that CS said it would be scary for Sugrim to be out of jail and safest for the family if he stayed in jail. She said he feared retaliation and told her

Sugrim would kill them if he was released. Lennen suggested CS would need therapy for a long time.

Lennen testified that SS was more verbal and able to talk very freely about her life with Sugrim. She testified that SS said she loved Sugrim but never felt safe with him; she never knew what to expect and was always on edge. Lennen said SS reported the children were beaten because of schoolwork. She said SS was very concerned about her brother and thought he was more physically harmed than her, with scars on his back from beatings. Lennen testified that SS said her mother tried to intervene, but Sugrim would threaten to kill her and the children. She said SS picked out a way to escape any room, including Lennen's office. Lennen testified that SS wanted everyone to understand that Sugrim was not fit to be a parent; he was cruel and abusive and did nothing but hurt people. SS said she felt safe with Sugrim in jail. Lennen opined that SS would be harmed if Sugrim's rights were not terminated and the benefit of permanence outweighed any damage caused by severing his rights.

As he had at the jurisdictional trial, Sugrim continued to testify that the allegations were exaggerations; the only legitimate accusation was from May 16, 2011. He said he had no excuse for the May 16, 2011 incident and took full responsibility, even though it was medical intoxication. Sugrim suggested that the children were lying about the other incidents in support of their mother. Sugrim testified that his wife's personality changed after her heart attack; she behaved differently, forgot a lot of things, and would do things she could not explain and then make up a story to explain it, which led to arguments. Sugrim testified that he knew B. Sugrim was not a liar and had no evil in her; she was going through something neurological as a result of the heart attack. He testified that the legitimate disciplinary issues were not abusive; they involved three or four swats on the buttocks with no marks or blood.

Sugrim testified that Dr. Henry and Counselor Lennen meant well but did not have the full picture. Sugrim said it would be proven that he did not do those things, and he would then accept apologies and forgive. Sugrim called termination of parental rights a "legal fiction."

The trial court found clear and convincing evidence of statutory grounds to terminate Sugrim's parental rights under MCL 712A.19b(3)(b)(i), (g), (h), (j), and (k)(iii). Turning to the children's best interests, the trial court stated that none of the child custody factors supported not terminating Sugrim's rights.

Sugrim now appeals.

II. EVIDENTIARY ISSUES

A. STANDARD OF REVIEW

This Court reviews for an abuse of discretion a decision to admit or deny evidence in a child protective proceeding, including photographs.¹

B. PHOTOGRAPHIC EVIDENCE

Sugrim argues that the trial court erred in admitting photographs of SS's injuries because Dr. Spirito's testimony presented the same evidence and the photographs were disturbing, causing an audible gasp from the jury and gallery. We disagree.

Photographs are admissible if they are relevant and their probative value is not substantially outweighed by the risk of unfair prejudice.² Although the photographs likely triggered an emotional reaction, it is improper for us to consider the alleged gasp because it is not documented in the lower court record.³ Moreover, photographs are not inadmissible merely because they are gruesome or used to corroborate an expert's description.⁴ They may be used to allow jurors to see the extent of injuries for themselves,⁵ even when they depict a severely beaten child.⁶ The photographs helped the jurors understand the extent of the injuries that Sugrim inflicted, which he attempted to minimize and attributed to medical intoxication. Therefore, we conclude that their probative value was not substantially outweighed by the risk of unfair prejudice.⁷

C. SUGRIM'S TESTIMONY REGARDING WIFE'S MEMORY

Before the jurisdictional jury trial began, DHS moved to exclude Sugrim's testimony that his wife, B. Sugrim, suffered from Korsakov syndrome and cardiac sudden death syndrome. Sugrim claimed that he had extensive experience working with individuals suffering from Alzheimer's and dementia. His attorney admitted that there was no support for Sugrim's claims in B. Sugrim's medical records and that Sugrim had no medical training outside of working in his family hospice or assisted living business for several years. The trial court held that Sugrim could give his observations of the way B. Sugrim acted, but he was prohibited from labeling her behavior with any medical terminology or referencing any specific disorder because he lacked the necessary expertise.

¹ *In re Jones*, 286 Mich App 126, 130; 777 NW2d 728 (2009); *People v Gayheart*, 285 Mich App 202, 227; 776 NW2d 330 (2009).

² MRE 403; *People v Mills*, 450 Mich 61, 76; 537 NW2d 909, modified 450 Mich 1212; 539 NW2d 504 (1995).

³ See MCR 7.210(A)(1); *Sherman v Sea Ray Boats, Inc*, 251 Mich App 41, 56; 649 NW2d 783 (2002).

⁴ *Miller*, 450 Mich at 76; *People v Unger*, 278 Mich App 210, 303; 749 NW2d 272 (2008).

⁵ *People v Gayheart*, 285 Mich App 202, 227; 776 NW2d 330 (2009).

⁶ *People v Leonard*, 81 Mich App 86, 88; 264 NW2d 130 (1978).

⁷ MRE 403

Sugrim argues that the trial court erred in not allowing him to testify before the jury regarding his belief that his wife suffered from a medical condition affecting her memory after a heart attack. We disagree.

Sugrim lacked the medical training necessary to diagnose his wife and testify as an expert under MRE 702. A witness who is not testifying as an expert may testify regarding his opinions if they are “(a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue.”⁸ Sugrim, therefore, could testify regarding the behavior and memory problems he observed in his wife but could not give her a diagnosis or explain the effect of her heart attack on her brain cells. Therefore, the trial court did not err in excluding the testimony.

III. STATUTORY GROUNDS FOR TERMINATION

A. STANDARD OF REVIEW

To terminate parental rights, the trial court must find that the DHS has proven at least one of the statutory grounds for termination by clear and convincing evidence.⁹ We review for clear error a trial court’s decision terminating parental rights.¹⁰ 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.¹¹ We give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.¹²

B. RELEVANT STATUTORY PROVISIONS

As stated, the trial court found clear and convincing evidence of statutory grounds to terminate Sugrim’s parental rights under MCL 712A.19b(3)(b)(i), (g), (h), (j), and (k)(iii).

MCL 712A.19b(3)(b)(i) provides a statutory ground for termination when

[t]he child or a sibling of the child has suffered physical injury or physical or sexual abuse[,] . . . [t]he parent’s act caused the physical injury or physical or sexual abuse[,] and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent’s home.

⁸ MRE 701. See *People v Hanna*, 223 Mich App 466, 475; 567 NW2d 12 (1997).

⁹ MCL 712A.19b(3); MCR 3.977(H)(3)(a); *In re Sours Minors*, 459 Mich 624, 632; 593 NW2d 520 (1999).

¹⁰ MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours Minors*, 459 Mich at 633.

¹¹ *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

¹² MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

MCL 712A.19b(3)(g) provides a statutory ground for termination when “[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.” MCL 712A.19b(3)(h) provides a statutory ground for termination when

[t]he parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child’s proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.

MCL 712A.19b(3)(j) provides a statutory ground for termination when “[t]here is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.” And MCL 712A.19b(3)(k)(iii) provides a statutory ground for termination when “[t]he parent abused the child or a sibling of the child and the abuse included . . . [b]attering, torture, or other severe physical abuse.”

C. ANALYSIS

Sugrim argues that the trial court erred in finding statutory grounds to terminate his parental rights; however, he does not address each statutory ground individually. Sugrim’s argument is based entirely on his assertion that his testimony was more believable than the allegations made by his wife and children. But the trial court was in the best position to judge witness credibility,¹³ and we conclude that it did not err in finding the allegations more believable than Sugrim’s explanations. Indeed, Sugrim admitted that the incident that triggered the investigation did occur. And although Sugrim’s physician testified that anesthesia and pain medicine can affect cognitive function, he did not testify that it could cause the violent behavior that Sugrim exhibited.

Moreover, as Sugrim argues on appeal, a parent’s right to the custody of his children is an element of liberty protected by due process guarantees, and this liberty interest does not disappear merely because the parent was not a “model parent.”¹⁴ However, when there is clear and convincing evidence of a statutory ground for termination, the parent’s liberty interest no longer includes the right to custody and control of his child.¹⁵ And, on the basis of our review of the record, there was clear and convincing evidence to support termination of Sugrim’s parental rights under MCL 712A.19b(3)(b)(i), (g), (h), (j), and (k)(iii).

¹³ MCR 2.613(C); *In re Miller*, 433 Mich at 337.

¹⁴ See *Santosky v Kramer*, 455 US 745, 753; 102 S Ct 1388; 71 L Ed 2d 599 (1982); *In re JK*, 468 Mich at 210.

¹⁵ *In re Trejo Minors*, 462 Mich at 355.

With regard to MCL 712A.19b(3)(b)(i), there was clear and convincing evidence that Sugrim caused physical injury and abuse, and the children were reasonably likely to receive further injury or abuse if placed in his care. Further, on the basis of either the abuse or Sugrim's lengthy incarceration for assaulting his daughter, there was clear and convincing evidence that he failed to provide proper care and custody and there was no expectation he would do so within a reasonable time. Thus, termination was also warranted under MCL 712A.19b(3)(g).

Turning to MCL 712A.19b(3)(j), the evidence was sufficient to establish a reasonable likelihood of harm if the children were returned to Sugrim's custody because he was likely to abuse them further when not incarcerated.

With respect to MCL 712A.19b(3)(k)(iii), the abuse on May 16, 2011, alone was sufficient to constitute severe physical abuse and establish a statutory ground for termination.

Finally, MCL 712A.19b(3)(h) requires only evidence that the respondent be imprisoned for more than two years and has not provided for the child's care and custody. And in July 2011, the trial court sentenced Sugrim to a minimum of 56 months in prison. But during his incarceration, B. Sugrim was providing proper care and custody, thus, Sugrim arguably did not leave them without proper care. However, any error in the trial court basing termination on this ground is harmless because only *one* statutory ground need be proven to support termination of parental rights,¹⁶ and as we have explained, termination was supported by the other four listed grounds.

IV. BEST INTERESTS DETERMINATION

A. STANDARD OF REVIEW

Sugrim argues that the trial court erred in finding that termination of his parental rights "was not clearly contrary to the children's best interests." Once DHS has established a statutory ground for termination by clear and convincing evidence, if the trial court also finds from evidence on the whole record that termination is in the child's best interests, then the trial court is required to order termination of parental rights.¹⁷ There is no specific burden on either party to present evidence of the children's best interests; rather, the trial court should weigh all evidence available.¹⁸ We review for clear error the trial court's decision regarding the child's best interests.¹⁹

B. LEGAL STANDARDS

¹⁶ MCL 712A.19b(3); MCR 3.977(H)(3)(a); *In re Sours Minors*, 459 Mich at 632.

¹⁷ MCL 712A.19b(5); MCR 3.977(H)(3)(b); *In re Trejo Minors*, 462 Mich at 351.

¹⁸ *In re Trejo Minors*, 462 Mich at 353.

¹⁹ *Id.* at 356-357.

In determining the child's best interests, a trial court may consider a variety of factors including the parent's history, unfavorable psychological evaluations, the child's age, inappropriate parenting techniques, and continued involvement in domestic violence.²⁰ A trial court may also consider the strength of the bond between the parent and child, the visitation history, the parent's engaging in questionable relationships, the parent's compliance with treatment plans, the child's well-being while in care, and the possibility of adoption.²¹ A trial court may also consider the child's need for permanence and the length of time the child may be required to wait for the parent to rectify the conditions, which includes consideration of the child's age and particular needs.²²

C. ANALYSIS

Contrary to DHS's assertion on appeal, there is no presumption that termination is in a child's best interests. DHS must prove that termination was in the child's best interests under MCL 712A.19b(5), as amended in 2008.²³ However, in the present case, any positive attributes of Sugrim as a father were outweighed by the physical abuse he repeatedly inflicted on his children. The children were traumatized and needed the stability and permanence that termination of Sugrim's parental rights could provide. We therefore conclude that the trial court did not clearly err in finding that termination of Sugrim's parental rights was in the child's best interests.

We affirm.

/s/ Douglas B. Shapiro
/s/ Joel P. Hoekstra
/s/ William C. Whitbeck

²⁰ See *In re Jones*, 286 Mich App at 131.

²¹ See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001).

²² See *In re McIntyre*, 192 Mich App 47, 52-53; 480 NW2d 293 (1991).

²³ 2008 PA 199.