

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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*In re* FARRIS, Minors.

UNPUBLISHED  
December 22, 2015

No. 326873  
Macomb Circuit Court  
Family Division  
LC No. 2013-000224-NA

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Before: SAWYER, P.J., and BECKERING and BOONSTRA, JJ.

PER CURIAM.

Respondent father appeals as of right from an order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i) (parent's act caused physical injury or physical or sexual abuse to child or sibling of child) and (k)(ii) (parent abused child or sibling of child by criminal sexual conduct). We affirm.

The initial petition involving these children was filed in June 2013, seeking court jurisdiction over the children and termination of respondent's parental rights based on respondent's sexual abuse of the minor children's half-sister. A pretrial was held in August 2013. At that time, respondent had criminal charges pending stemming from the assault on his stepdaughter, and petitioner requested the criminal matter be resolved before proceeding on this case. The children's attorney and respondent's attorney agreed to continue the matter and a new date was set.

At the hearing in September 2013, petitioner requested another continuance due to the pending criminal matter. Respondent requested a trial date or dismissal, and the court denied the request to continue the case. A trial date was set for December 2013. However, before that occurred, the court entered an order adjourning the trial to February 2014 because respondent's competency evaluation was pending in district court. The parties appeared for the jury trial in this matter in February 2014. At that time, the court was informed that all parties agreed to an adjournment. Petitioner and the minor children's attorney pointed out that the victim had testified at the preliminary examination in the criminal matter. There was concern about her emotional and mental well-being and having to repeatedly testify about the incident. Respondent's attorney concurred with an adjournment because of discovery issues and the desire to preserve respondent's right to testify for the first time at his criminal proceedings. The court ruled that the adjudication trial would be adjourned until after respondent's criminal trial, citing a concern for the victim.

Ultimately, the jury trial in this matter did not start until December 2014, after respondent's criminal proceedings concluded. Respondent had been convicted of three counts of first-degree criminal sexual conduct and sentenced to 60 to 120 years' imprisonment. Based on respondent's convictions in the criminal matter, the jury in this case found that the trial court had jurisdiction over the children and the court entered an order of adjudication. The termination hearing took place in January 2015. Following the proofs, the court found MCL 712A.19b(3)(b)(i) and (k)(ii) established by clear and convincing evidence and that termination was in the children's best interests. The court entered an order terminating respondent's parental rights. Respondent appeals.

Respondent first contends that reversal is required because of the delay in his trial. MCR 3.972(A) provides that, "if the child is not in placement, the trial must be held within 6 months after the filing of the petition unless adjourned for good cause under MCR 3.923(G)." Pursuant to MCR 3.923(G): "Adjournments of trials or hearings in child protective proceedings should be granted only (1) for good cause, (2) after taking into consideration the best interests of the child, and (3) for as short a period as necessary." We review the trial court's decision to adjourn the trial for an abuse of discretion. *In re Jackson*, 199 Mich App 22, 28; 501 NW2d 182 (1993). A trial court abuses its discretion when its decision falls outside the range of principled outcomes. *In re Brown/Kindle/Muhammad*, 305 Mich App 623, 629; 853 NW2d 459 (2014).

We first note that respondent waived this issue by agreeing to adjourn his trial until after his criminal case. Error requiring reversal may only be predicated on the trial court's actions and not upon alleged error to which the aggrieved party contributed by plan or negligence. *Lewis v LeGrow*, 258 Mich App 175, 210; 670 NW2d 675 (2003). A party may not take a position in the trial court and then seek relief based on a position contrary to that taken in the trial court. *Holmes v Holmes*, 281 Mich App 575, 587-588; 760 NW2d 300 (2008).

Moreover, we find that the trial court's decision to adjourn the jurisdiction trial until after respondent's criminal trial was not outside the range of principled outcomes. In order for a trial court to find good cause for an adjournment, a legally sufficient or substantial reason must first be shown. *In re Utrera*, 281 Mich App 1, 11; 761 NW2d 253 (2008). The court reasonably concluded that protecting the victim's emotional well-being constituted good cause for adjourning the matter until after respondent's criminal case was resolved. The trial started shortly after the criminal proceedings were concluded, so the adjournment was for as short a period as necessary. Although the court focused mostly on the best interests of the victim (who was not a subject of the petition in this case), rather than the two children at issue, respondent has not alleged, nor does any evidence indicate, that adjournment was contrary to these children's best interests. While this matter was pending, the children remained in their mother's care and were doing well and thriving.

Respondent also contends that the trial court erred in finding that termination of his parental rights was in his children's best interests. We disagree. In deciding a child's best interests, a court may consider the child's bond to his parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the suitability of alternative homes. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014); *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). The trial court should weigh all the evidence available to determine the child's best interests. *White*, 303 Mich App at 713.

In this case, respondent testified that he never abused or neglected his children and denied assaulting their sister. He claimed he loved his children and wanted to remain their father. However, respondent was convicted of sexually abusing the minor children's sibling. His treatment of that child suggests how he would treat other children. *In re HRC*, 286 Mich App 444, 460-461; 781 NW2d 105 (2009). The Children's Protective Services worker testified that respondent would not ever be able to care for his children, given his 60-to-120-year sentence, and visitation with respondent would not be in the children's best interests. She opined that termination of respondent's parental rights was in the children's best interests to allow them emotional closure. The children had been continuously placed in their mother's care during this case and were doing well. A preponderance of the evidence supports the trial court's decision regarding the children's best interests, and it did not clearly err in that determination.

Affirmed.

/s/ David H. Sawyer  
/s/ Jane M. Beckering  
/s/ Mark T. Boonstra