

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

---

In the Matter of MAKYHYA WOMBLE and  
JABRI COVINGTON, Minors.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PATRICK WOMBLE,

Respondent-Appellant.

---

UNPUBLISHED

April 26, 2007

No. 273175

Wayne Circuit Court

Family Division

LC No. 06-455220-NA

Before: Wilder, P.J., and Sawyer and Davis, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the children. We affirm.

Respondent was married to Tara Covington and living with her, their two children, Makyhya and Jabri, and Ms. Covington's daughter, Genesis Glass, when Genesis alleged that respondent had sexually abused her. On May 17, 2006, a protective services worker investigated the allegations. The worker interviewed Genesis, who claimed that respondent had, on four occasions between January and April 2006, gotten into bed with her and rubbed his penis against her buttocks while she pretended to sleep. The next day, Genesis called the worker and stated that, after discussing the timeframes with her mother, she had concluded that a different male in the home may have been the perpetrator in January. However, in her subsequent in-person interview, she stated she believed that respondent was the perpetrator during all four incidents. Protective services advised respondent to move out of the family home.

Petitioner filed a permanent custody petition, seeking termination of respondent's parental rights to his two children, Jabri and Makyhya, based on the allegations raised by Genesis. At trial, 15-year-old Genesis testified that respondent had entered the room she was sleeping in on four occasions between January and April 2006, and, although he did not remove her clothing, he placed his penis in her buttocks. She admitted that she did not see the perpetrator but knew it was respondent because, although there were other adult males in the home at the time of the first incident, he was the only adult male in the home during the other incidents. The protective services worker who investigated the allegations, Ms. Covington, and the police officer who interviewed respondent all testified about Genesis' statements to them

regarding the alleged abuse, and all indicated they believed Genesis. The court concluded that Genesis was a credible witness and that it believed that respondent had sexually abused her. The court terminated respondent's parental rights.

Respondent contends that this Court must reverse the lower court's order because of the court's reliance on inadmissible hearsay evidence. The protective services worker who interviewed Genesis about her sexual abuse allegations was permitted to testify at trial regarding statements made to her by Genesis, despite objections by respondent's counsel that the testimony was inadmissible hearsay. On appeal, petitioner concedes that the worker's testimony was hearsay but argues that admission of the evidence was harmless in light of the fact that Genesis testified at trial and gave a more detailed and complete account of the sexual abuse than that solicited from the worker's testimony.

Because Genesis testified at trial, her testimony served as the primary source for establishing the sexual abuse by respondent. The court relied upon Genesis' testimony, not that of the worker, when it concluded that the sexual abuse took place and that respondent was the perpetrator. Although the court did rely on the consistency in which Genesis related her story to different parties in assessing Genesis' credibility, the worker was not the only party to have testified regarding Genesis' description of the alleged abuse. Both Ms. Covington, Genesis' mother, and the police officer who investigated Genesis' allegations testified, without objection from respondent's counsel, regarding Genesis' statements to them. Because the worker's hearsay testimony was not used by the court to establish Genesis' allegations against respondent and, to the extent the court relied upon it to bolster Genesis' credibility, it was only one of several sources relied upon by the court, the improper admission of the testimony did not affect respondent's substantial rights. *In re Caldwell*, 228 Mich App 116, 123; 576 NW2d 724 (1998); MCR 2.613(A). As such, the error does not warrant reversal.

Respondent also contends that the trial court erroneously allowed Genesis to respond to petitioner's counsel's leading question regarding whether she remembered telling the protective services worker that she pretended to sleep where Genesis stated in her testimony that she had slept through the assault. Because the question concerned Genesis' statement to the worker, not her prior testimony at court, respondent's objection was unfounded. As such, the trial court did not abuse its discretion in admitting this evidence.

Respondent also argues the court's order must be reversed or remanded because the court failed to articulate the statutory grounds in support of termination. Under MCR 3.977(H)(3), an order terminating parental rights may not be entered "unless the court makes findings of fact, states its conclusions of law, and includes the statutory basis for the order." The record indicates that the court referenced "MCL 748.19BIAII G and J" in support of termination of respondent's parental rights. Petitioner contends that, based on the absence of any statute MCL 748.19 and in light of its request for termination under MCL 712A.19b(3)(b)(i), (b)(ii), (g), (j), and (k)(ii), the reference in the record to MCL 748.19 was clearly a transcription error and does not justify reversal of the lower court's order or remand. At oral argument both petitioner and respondent agree that it was a transcription error and both agree that the trial court was referencing MCL 719A.19b(3)(b)(i), (b)(ii), (g) and (j) as the statutory grounds for termination, although petitioner concedes that reliance on subsection (b)(ii) was erroneous in the instant case.

We review the trial court's findings of fact for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 351; 612 NW2d 407 (2000); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A review of the trial court's findings shows that it did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. The record also indicates that the termination of respondent's parental rights was in the children's best interest. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Kurtis T. Wilder  
/s/ David H. Sawyer  
/s/ Alton T. Davis