

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of B. E. C. JOHNSON, Minor.

UNPUBLISHED  
May 15, 2014

No. 318885  
Wayne Circuit Court  
Family Division  
LC No. 13-511846-NA

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Before: RIORDAN, P.J., and DONOFRIO and FORT HOOD, JJ.

PER CURIAM.

Respondent-father appeals by right the circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (g), (h), (j), and (n)(i). We affirm.

In July 2010, respondent was sentenced to prison on a conviction of first-degree criminal sexual conduct (CSC), MCL 750.520b(1)(a), perpetrated against his niece. Two years later, respondent's son revealed that respondent had also sexually abused him some years earlier. In August 2013, respondent was convicted of three counts of second-degree CSC, MCL 750.520c, and sentenced to 86 months to 15 years in prison.

Respondent's sole claim on appeal is that the trial court erred in finding that termination of his parental rights was in the child's best interests. The trial court's decision regarding the child's best interests is reviewed for clear error. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); 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).

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). Whether termination is in the child's best interests is to be determined by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013).

In deciding whether termination is in the child's best interests, the court may consider a variety of factors, including the parent's parenting ability, *In re Jones*, 286 Mich App 126, 129-130; 777 NW2d 728 (2009), the child's bond to the parent, *In re BZ*, 264 Mich App at 301, the child's safety and well-being, *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011),

and whether the parent can provide a permanent, safe, and stable home, *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012). The trial court may consider all evidence regardless of which party produced it. *In re Trejo Minors*, 462 Mich at 353. If the parties do not produce any evidence specifically addressing the child's best interests, the trial court may base its determination on the evidence on the whole record. *Id.*

The record indicates that respondent sexually abused his own son, for which he was convicted of three counts of second-degree CSC. That respondent would take advantage of his position of authority, his son's obedience, and the affection for a parent in such a manner shows that he is unfit to be a father to that child. Accordingly, termination of respondent's parental rights is necessary to protect the child and outweighs any collateral benefit, such as the right of inheritance, from maintaining the parent-child relationship. Respondent's belief that he had a "close, loving relationship with his son," who at one time stated that he "missed his father," is of little significance in light of the damage respondent inflicted by the abuse. Moreover, contrary to respondent's belief, the guardian ad litem indicated that the child wished to have his rights terminated and wanted no further contact. The trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Michael J. Riordan  
/s/ Pat M. Donofrio  
/s/ Karen M. Fort Hood