

STATE OF MICHIGAN
COURT OF APPEALS

In re PRINGLE, Minors.

UNPUBLISHED
February 12, 2015

No. 322516
Genesee Circuit Court
Family Division
LC No. 13-130543-NA

Before: FORT HOOD, P.J., and JANSEN and GADOLA, JJ.

PER CURIAM.

Respondent, J. Pringle, appeals as of right the trial court's order terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii). We affirm.

The Department of Human Services (DHS) filed a petition to obtain jurisdiction over respondent's two children, EP and MP, and to terminate respondent's parental rights at the initial dispositional hearing. The essential allegation against respondent was that he sexually molested his stepdaughter, KS, while married to KS's mother, AP. KS testified that respondent began sexually abusing her when she was 14 or 15 years old. The abuse began with acts of kissing and touching, but progressed to oral sex shortly before KS's 16th birthday, and then eventually to acts of sexual intercourse. KS eventually became pregnant and gave birth to respondent's child at age 17. Respondent's paternity of the infant was confirmed by DNA testing. In addition, KS's eight-year-old sister reported that respondent would wrestle with her in her bedroom while wearing only his underwear, and he instructed her to be quiet if her mother was home. After a trial, the court found clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii), and that termination was in the children's best interests. Respondent now appeals.

On appeal, respondent argues that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence, and in finding that termination of his parental rights was in the children's best interests. We disagree.

The petitioner has the burden of establishing a statutory ground for termination in MCL 712A.19b(3) by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 351; 612 NW2d 407 (2000). A trial court's factual findings and its ultimate determination that a statutory ground for termination has been proven is reviewed for clear error. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). "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). A trial court’s decision regarding a child’s best interests is also reviewed for clear error. *In re Trejo*, 462 Mich at 356-357. A finding is clearly erroneous if, although there is evidence to support it, the reviewing court is left with the definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich at 152.

The trial court terminated respondent’s parental rights under MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii), which permit termination of parental rights under the following circumstances:

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The 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.

* * *

(g) The 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.

* * *

(j) There 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.

(k) The parent abused the child or a sibling of the child and the abuse included 1 or more of the following:

* * *

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

Respondent asserts that termination was improper under §§ 19b(3)(b)(i) and (k)(ii) as a matter of law because, although the evidence indicated that he sexually abused KS, KS was not a “sibling” of either of his own children, EP or MP. Rather, KS was his children’s stepsibling. Respondent contends that the term “sibling” as used in §§ 19b(3)(b)(i) and (k)(ii) does not include a “stepsibling.” However, termination of parental rights need only be supported by a single statutory ground, so any error in terminating under one ground is harmless if the court properly finds another ground for termination. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Because we hold that the trial court did not err in finding that termination was justified pursuant to §§ 19b(3)(g) and (j), discussed *infra*, it is unnecessary to resolve respondent’s interpretive issue regarding §§ 19b(3)(b)(i) and (k)(ii). We also note that we do not agree with respondent that the trial court’s findings pursuant to §§ 19b(3)(g) and (j) were

dependent on §§ 19b(3)(b)(i) and (k)(ii). While the facts used to justify the statutory grounds may overlap, that does not establish error. Thus, a determination of whether KS qualifies as EP and MP's sibling for purposes of §§ 19b(3)(b)(i) and (k)(ii) is of no relevance to whether termination was proper under §§ 19b(3)(g) and (j).

Subsection 19b(3)(j) allows termination of parental rights where there is a “reasonable likelihood . . . that the child will be harmed if he or she is returned to the home of the parent.” The evidence showed that respondent repeatedly sexually assaulted his stepdaughter, KS, beginning at the age of 14. John Neumann, who was qualified as an expert in the assessment and treatment of sexual offenders,¹ opined that regardless of KS's age and relationship to the minor children, respondent acted in a parental authority role with regard to her because of his status as her stepfather. After conducting an evaluation, Neumann opined that respondent “[p]laces all blame on the victim's actions as if he had no control over himself. He does not view his actions as harmful to anyone other than himself as having been caught and getting into trouble. . . . It appears that he has little remorse, guilt or shame with his involvements or actions.” Neumann also opined that because respondent's behavior was different when his wife was present, his behavior was orchestrated and that he could be grooming his other stepdaughter, MS, to engage in similar behavior. Neumann stated that it was highly likely that respondent would continue such behavior and that his own children, who were coming into their adolescent years, were also at risk. He concluded that respondent “appears to invest a great deal of rationalization, justification and minimization of his own actions and that this leaves open serious questions as to his intentions and his overall judgment and parenting abilities.” Neumann recommended that any contact between respondent and any minor children, both male and female, be supervised. Neumann's testimony regarding respondent's lack of remorse or shame for the sexual abuse of his stepdaughter, his inability to control his own conduct and tendency to instead blame his victims for his lack of self-control, the high likelihood that respondent would continue to engage

¹ It is unclear whether respondent is challenging Neumann's qualification as an expert. Respondent asserts in his brief that there was “a serious issue of the expert qualifications of DHS's expert, John Neumann,” but respondent does not further address Neumann's qualifications. An appellant may not merely announce a position and leave it to this Court to discover and rationalize the basis for a claim. *McIntosh v McIntosh*, 282 Mich App 471, 485; 768 NW2d 325 (2009). To the extent that respondent suggests that Neumann was not qualified to provide expert testimony, we disagree. Respondent's objection to Neumann's qualifications below was based principally on the type of degree and licensure that he held. As the trial court observed, however, a witness may be qualified as an expert “by knowledge, skill, experience, training, or education[.]” MRE 702 (emphasis added). Neumann's testimony demonstrated that in addition to obtaining bachelor's and master's degrees in social work, he had worked with juvenile and adult sexual offenders for 28 years, during which time he had attended training seminars in that field every two years since 1986, had developed a sex offender treatment program, and had provided both treatment and risk assessments in hundreds of cases. Given this background, the trial court did not abuse its discretion in determining that Neumann was qualified as an expert in the assessment and treatment of sexual offenders. *Gay v Select Specialty Hosp*, 295 Mich App 284, 290; 813 NW2d 354 (2012).

in offending conduct, and that respondent's own children were at risk of abuse, supports the trial court's determination that respondent's children were reasonably likely to be harmed if returned to respondent's home. Accordingly, the trial court did not clearly err in finding that termination was justified under § 19b(3)(j).

Termination was also appropriate under § 19b(3)(g). Respondent failed to provide proper care and custody for his children by engaging in criminal sexual conduct against his stepdaughter, which led to the filing of criminal charges and his removal from the family home. Because the children's mother had previously died, they were left with no natural parent to care for them. In addition, evidence was presented that respondent's child, EP, exhibited sexual acting out behavior that mimicked some of respondent's conduct. Considering respondent's conduct over a period of years and the criminal charges he was facing, Neumann's evaluation and respondent's poor prognosis, and the fact that respondent's children were coming into their adolescent years, the trial court did not clearly err in finding that respondent would not be able to provide proper care and custody for the children within a reasonable time considering their ages. Accordingly, the trial court did not err in finding that termination was justified under § 19b(3)(g). Thus, the trial court did not err in finding that §§ 19b(3)(g) and (j) were established by clear and convincing evidence.

Respondent next asserts that the trial court erred in finding that termination was in the children's best interests. Whether termination of parental rights is in a child's best interests is determined by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). In determining a child's best interests, the trial court may consider a variety of factors including the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, the advantages of a foster home over the parent's home, *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012), as well as a respondent's history, psychological evaluation, and parenting techniques. *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009).

The trial court did not err in finding that termination of respondent's parental rights was in the children's best interests. Respondent sexually assaulted his stepdaughter for years while she was under his care. Neumann opined that respondent's justification and minimization of his own actions left open serious questions regarding his intentions and his overall judgment and parenting abilities. Neumann also opined that it was highly likely respondent would continue such behavior and that his own children were at risk. The children's biological mother had recently died and the children were in need of permanency and stability. The evidence indicated that there was no significant bond between respondent and his children, but that the children were bonded with KS's mother, who was capable and willing to provide a safe, nurturing, and stable environment for them. As the trial court observed, respondent was likely to be incarcerated and unable to provide a safe, permanent, and stable environment for the children within the foreseeable future. For these reasons, the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Kathleen Jansen

/s/ Michael F. Gadola