

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

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*In re* RINGLE, Minors.

UNPUBLISHED  
March 11, 2021

No. 354560  
Monroe Circuit Court  
Family Division  
LC No. 19-024713-NA

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Before: STEPHENS, P.J., and K. F. KELLY and RIORDAN, JJ.

PER CURIAM.

In this termination of parental rights case, respondent appeals as of right the trial court's order terminating his parental rights to his biological children, DR, MR, AR, and SR, under MCL 712A.19b(3)(b)(i) (parent caused sexual abuse of a sibling and there is a reasonable likelihood of future abuse), (j) (reasonable likelihood of harm if child is returned to parent's home), and (k) (sexual abuse of a sibling). On appeal, respondent argues only that the trial court clearly erred when it determined that terminating his parental rights was in the children's best interests. We affirm.

**I. FACTUAL BACKGROUND**

These proceedings arise out of allegations that respondent sexually abused his minor stepchildren, RF and KF, while residing with them. The sexual abuse included instances of inappropriate physical contact involving both RF and KF and an instance in which respondent forced KF to straddle him while fully clothed. As a result, respondent was convicted of three counts criminal sexual conduct in the second degree (CSC-II) under MCL 750.520c and one count of accosting a child for immoral purposes under MCL 750.145a. Respondent was sentenced to 4 to 15 years' imprisonment. Before respondent's incarceration, he was compliant with his case service plan and demonstrated love and affection for DR, MR, AR, and SR. During respondent's incarceration, he contacted DR, MR, AR, and SR by telephone almost every day. Nonetheless, after respondent's convictions, petitioner filed a permanent custody petition seeking to terminate his parental rights to DR, MR, AR, and SR. Ultimately, the trial court found that there were statutory grounds to terminate respondent's parental rights. The trial court also engaged in a lengthy analysis and determined that terminating respondent's parental rights was in the best interests of DR, MR, AR, and SR. This appeal followed.

## II. BEST INTERESTS

The trial court did not clearly err when it determined that terminating respondent's parental rights was in the children's best interests.

"Whether termination of parental rights is in the best interest of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). This Court reviews the trial court's ruling that termination is in the child's best interests for clear error. *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004). "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 Moss*, 301 Mich App at 80 (citation and quotation marks omitted).

"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). "In making its best-interest determination, the trial court may consider the whole record, including evidence introduced by any party." *In re Medina*, 317 Mich App 219, 237; 894 NW2d 653 (2016) (citation and quotation marks omitted).

The court should consider a wide variety of factors that may include the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption. [*Id.* at 237-238 (citation and brackets omitted).]

Further, the trial court may consider the factors provided in MCL 722.23. *Id.* at 238. The factors provided in MCL 722.23 are as follows:

(a) The love, affection, and other emotional ties existing between the parties involved and the child.

(b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.

(c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(f) The moral fitness of the parties involved.

(g) The mental and physical health of the parties involved.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.

(j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent.

(k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(l) Any other factor considered by the court to be relevant to a particular child custody dispute.

“[I]f the best interests of the individual children *significantly* differ, the trial court should address those differences when making its determination of the children's best interests.” *In re White*, 303 Mich App 701, 715; 846 NW2d 61 (2014) (emphasis in original). Finally, “the fact that the children are in the care of a relative at the time of the termination hearing is an explicit factor to consider in determining whether termination was in the children's best interests.” *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012) (citation and quotation marks omitted).

In the instant matter, the trial court considered several proper factors and concluded that a preponderance of the evidence supported termination. Upon a review of the entire record, we are not left with a definite and firm conviction that a mistake has been made.

Initially, the trial court correctly determined that it was not required to consider the children's placement with their biological mother as a factor that weighed against termination. It is generally true that a child's placement with a relative weighs against termination. *Id.* However, a child's biological mother is not a “relative” as defined under MCL 712A.13a(1)(j). *In re Schadler*, 315 Mich App 406, 413; 890 NW2d 676 (2016). Thus, the children's placement was not a factor that weighed against termination.

The trial court considered the bonds that respondent shared with his children and determined that the bonds significantly differed. The trial court found that MR and DR shared strong bonds with respondent but AR and SR did not. These findings are supported by the record. Respondent, the children's mother, and the children's paternal grandmother testified that respondent had a close relationship with MR and DR before he was incarcerated. After respondent was incarcerated, MR and DR spoke with him on the telephone almost every day. Additionally, MR wrote a letter to the trial court stating that she missed spending time with respondent and that

she wanted to see him again. In contrast, AR and SR were both born shortly before respondent was incarcerated. Although respondent attempted to speak to AR and SR on the telephone, AR and SR were unable to maintain meaningful conversations with respondent because of their youth. Thus, while respondent's bonds with MR and DR weighed against termination, respondent's bonds with AR and SR did not.

Similarly, the trial court considered the children's preferences regarding termination and determined that MR's preference significantly differed from the preferences of DR, AR, and SR. This finding is supported by the record. Notably, MR wrote a letter to the trial court in which she expressed that she did not want the trial court to terminate respondent's parental rights. DR did not express a similar sentiment, and AR and SR were both too young to form an opinion regarding termination. In considering the children's differing preferences, the trial court contemplated the children's bonds to one another and found that terminating respondent's parental rights to only some children would not serve the children's best interests. Thus, while MR's preference weighed against termination, the preferences of DR, AR, and SR did not.

The trial court also considered respondent's parenting ability and found that it weighed in favor of termination. In doing so, the trial court relied on the doctrine of anticipatory neglect, "according to which how a parent treats one child is certainly probative of how that parent may treat other children." *In re LaFrance Minors*, 306 Mich App 713, 730; 858 NW2d 143 (2014) (quotation marks, citation, and bracket omitted). The trial court's finding is supported by the record. Although there was evidence that respondent acted as a loving parent to MR, DR, AR, and SR, the evidence also showed that respondent sexually abused both of his stepchildren, RF and KF. Indeed, respondent was found guilty of three counts of CSC-II and one count of accosting a minor for immoral purposes after RF and KF disclosed the abuse. Yet, respondent continued to deny during these proceedings that he committed the abuse. Additionally, Kenneth Bobicz, the children's foster care worker, expressed concern that MR, DR, AR, and SR would be at risk in respondent's care because respondent appeared to understand sexual norms and appropriate parenting but still chose to sexually abuse KF and RF. Bobicz stated that respondent successfully hid the instances of sexual abuse for several years before he was convicted. Thus, while respondent did act as a loving parent to his biological children, his parenting ability weighed in favor of termination because of his prior acts of sexual abuse.

The trial court went on to consider the children's need for permanency, stability, and finality and found that it weighed in favor of termination. The trial court's finding is similarly supported by the record. Respondent was sentenced to 4 to 15 years' imprisonment and his earliest release date is December 3, 2023. Additionally, the children's mother testified that she was unsure whether she would resume her relationship with respondent upon his release from prison. Thus, the earliest date that respondent can return home and provide permanency, stability, and finality for the children is December 3, 2023, and even if respondent is released on that date, respondent's relationship with the children's mother will be—at best—uncertain. The children may therefore be left without permanency, stability, and finality for a prolonged period. For these reasons, the termination of respondent's parental rights served the children's need for permanency, stability, and finality.

The trial court also considered the opinion of the foster care worker, Bobicz, and found that it weighed in favor of termination. Bobicz opined that terminating respondent's parental rights

would be in the children's best interests because the children would be at risk in respondent's care considering that he appeared to understand sexual norms and appropriate parenting but still chose to sexually abuse KF and RF. Thus, the trial court's finding is supported by the record.<sup>1</sup>

Finally, we are cognizant that the trial court considered other factors that weighed against termination. Specifically, the trial court acknowledged that respondent was compliant with all aspects of his treatment plan and that he displayed love and affection toward his children. In fact, the trial court commended respondent for contacting his children from prison almost every day. Nonetheless, the trial court found that these factors did not outweigh the factors weighing against termination, and we are not convinced that the trial court clearly erred in this regard.

### III. CONCLUSION

The trial court did not clearly err by finding that terminating respondent's parental rights was in the children's best interests. Accordingly, we affirm.

/s/ Cynthia Diane Stephens

/s/ Kirsten Frank Kelly

/s/ Michael J. Riordan

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<sup>1</sup> We note that the trial court failed to expressly consider the opinion of respondent's psychological examiner. Respondent's psychological examiner opined that he did not pose a risk to the children because he did not display any psychological characteristics that would impede his ability to manage his parenting responsibilities. Nevertheless, the psychological examination occurred before respondent's convictions and there is no evidence that the opinion of the psychological examiner should be given more weight than the opinion of Bobicz.