STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
June 13, 2025
9:25 AM

In re J. L. CRUMBEY, Minor.

No. 372280
Wayne Circuit Court
Family Division
LC No. 2023-000742-NA

Before: MALDONADO, P.J., and M. J. KELLY and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to his child, JC, under MCL 712A.19b(3)(b)(*i*), (j), (k)(*ii*), and (k)(*ix*). For the reasons stated in this opinion, we affirm.

I. BASIC FACTS

This case arises from respondent's sexual abuse of JC's half-sister. At the adjudication trial and dispositional hearing, JC's half-sister testified that respondent would perform daily "body evaluations" on her. She explained that respondent would call her into a back room to check and see if anyone was "messing" with her. He would check under her shirt and bra and inside her pants and underwear. During the examinations, he would sometimes touch her breasts. She also disclosed to a caseworker that respondent once "spread her butt checks" apart during an examination. JC's half-sister further explained that respondent would kiss her on the mouth and that he would check on her while she was showering. Although she did not need assistance, he shaved under her arms once. On another occasion, after she finished showering, he told her to get dressed in his bedroom. When she entered, he was only wearing underwear and directed her to sit on his lap. The contact made her feel weird and uncomfortable. Although another of JC's siblings testified that it was "normal" in their family for respondent to kiss the children on the lips, she also stated that it had recently stopped. She also corroborated JC's half-sister's testimony that respondent shaved her armpits.

A caseworker testified that respondent admitted to kissing JC's half-sister on the mouth, but that he denied the balance of the allegations. At trial, respondent's lawyer suggested that respondent was just interested in helping JC's half-sister maintain good hygiene. He also elicited testimony from JC's half-sister that she was upset that he did not allow her to wear an expensive necklace that she had received as a gift. He suggested that was the reason that JC's half-sister fabricated the allegations against him.

Based upon the testimony, the trial court found statutory grounds to take jurisdiction over JC and his older half-brother, CC. Further, the court found that there were statutory grounds to terminate respondent's parental rights to both children.

At the time of the termination hearing, JC and CC were living with their respective mothers. CC, who was 17 years of age, testified that he did not want respondent's parental rights to him to be terminated. He stated that he loved respondent and wanted to see him on a daily basis. Based upon that testimony, the trial court found that it was not in CC's best interests for respondent's parental rights to be terminated.

JC was 7 years of age at the time of the termination hearing. He was living with his half-sister, his half-brother, and his mother. Although he enjoyed spending time with respondent, he was unaware that respondent had sexually abused his half-sister. His mother testified that the visits were "fine," but that the contact between respondent and JC caused friction in the household. JC's half-sister felt isolated when everyone would go to visit respondent, and JC would question why his half-sister did not go with them on the visits. She explained that she had divorced respondent, but that no custody order had been entered. JC's mother indicated that she would not seek to bar respondent from contact with JC if the court opted to not terminate respondent's parental rights, but she stressed that it was a difficult situation given that respondent had sexually abused JC's half-sister with whom JC was living. JC's mother added that she was capable of meeting all of JC's needs. Based upon the testimony presented, the trial court found that it was in JC's best interests to terminate respondent's parental rights. This appeal follows.

II. BEST INTERESTS

A. STANDARD OF REVIEW

Respondent argues that the trial court erred by finding that it was in JC's best interests to terminate his parental rights. We review the trial court's findings on the best interests of a child and its final determination for clear error. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). Clear error exists if this Court is left with a definite and firm conviction that the trial court made a mistake. *Id*. at 709-710.

B. ANALYSIS

The trial court must find that termination is in a child's best interests by a preponderance of the evidence. *In re Sanborn*, 337 Mich App 252, 276; 976 NW2d 44 (2021). "The focus at the best-interest stage has always been on the child, not the parent." *In re Atchley*, 341 Mich App 332, 346; 990 NW2d 685 (2022) (quotation marks and citation omitted). The trial court is tasked with reviewing "all evidence available to it." *Id*. In doing so, the court may consider:

> 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. Other considerations include the length of time the child was in care, the likelihood that the child could be returned to her parents' home within the foreseeable future, if at all, and compliance with the case service plan. [*Id*. at 346-347 (quotation marks and citation omitted).]

A child's placement with his or her siblings may also be considered. *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). Likewise, the court may consider the child's safety and well-being when making a best-interests determination. *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011).

Respondent argues that the trial court erred by failing to conduct an individualized best interests evaluation for JC. He also maintains that CC was similarly situated to JC in "every respect except for his age." We disagree.

The trial court considered the best interests of each child separately. In doing so, the court recognized that both children had a strong bond with respondent. However, CC was almost 18 years of age, but JC was only 7 years old. CC was made aware that respondent had sexually abused JC's half-sister and he was old enough to make his own determination as to what level of contact he wished to maintain with respondent. Given JC's young age, he was not told that respondent had sexually abused his half-sister. Further, although he had a bond with respondent, given his age and lack of awareness of respondent's sexual abuse, the trial court did not err by not inquiring into his preference. Next, although both children were living with their mothers rather than with respondent, that was the only similarity in their living arrangements. JC was living with his half-sister, the child that respondent had sexually abused. Thus, in JC's case, a relevant consideration was the impact that continued contact between JC and respondent would have on the family dynamic. Indeed, JC's mother testified that the visits between JC and respondent led JC's half-sister to feel isolated and led JC to ask questions regarding why his half-sister was being left out from the visits. The court found that the negative impact on the family dynamic weighed in favor of finding that termination of respondent's parental rights was in JC's best interests.

In light of the foregoing, it is clear that the trial court took an individual approach to determining whether termination of respondent's parental rights was in the children's best interest. It found that, given the differences in the children's ages and living situations, it was in JC's best interests to terminate respondent's parental rights, but that it was not in CC's best interests to do so. The trial court's findings were not clearly erroneous.

Affirmed.

/s/ Michael J. Kelly
/s/ Michael J. Riordan

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MALDONADO, P.J. (*dissenting*).

In this termination of parental rights case, the trial court severed the relationship between respondent and his young son, JC, despite a lack of evidence that termination was in JC's best interests. Consequently, I dissent.

"Unlike some other states . . . Michigan does not have a process by which a parent can seek to have their parental rights reinstated. Accordingly, in this state, termination of parental rights could be properly characterized as tantamount to imposition of a civil death penalty." *In re Bates*, 514 Mich 862, 871 n 9; 8 NW3d 578 (2024) (CAVANAGH, J., dissenting) (quotation marks and citation omitted). Not only does termination represent a death for the parent, it is also a death for the child. Therefore, to determine what is truly in a child's best interests, a trial court should consider whether termination is necessary to protect the child from harm and whether termination would actually benefit the child. *Id*. at 871-872. Such an analysis must not be superficial. Instead, a trial court must analyze the complete record and fully weigh the relevant factors, which, in my opinion, was not done in the present case.

JC has a strong bond with respondent, which is amply supported by the record. JC's mother testified that JC "definitely" has a bond with respondent, who visited JC every week prior to termination. Regarding those visits, the DHHS case worker testified that JC enjoys spending time with respondent. Terminating respondent's parental rights, therefore, would result in instability in JC's life as it would remove a bonded figure from his accustomed weekly routine. In light of the evidence of a strong bond, the trial court had to determine that there were even stronger reasons in JC's best interests to terminate respondent's parental rights. See *In re Moss*, 301 Mich App 76,

90; 836 NW2d 182 (2013) (requiring that a best-interests determination be supported by a preponderance of the evidence).

However, in my view, the trial court failed to conduct an individualized determination of JC's best interests. Rather, the trial court concerned itself with how the allegations against respondent affected *other* members of JC's family. For instance, the trial court credited the testimony of JC's mother that "things are very difficult" for *her* and that *she* was "having a tough time keeping this family going and keeping things together" while trying not to tell JC "what went on." Likewise, the trial court conflated JC's interests with those of his half-sister. The trial court worried that JC's half-sister would be "uneasy" around him if he remained in contact with respondent. Thus, the trial court ordered termination to "let [JC] and his family . . . move on."

I agree that the trial court certainly could consider how respondent's continued relationship with JC impacted the entire family dynamic, but again, the focus should have been on JC. To that end, the DHHS did not present evidence that the stress on *other* family members also created stress for JC, such as through testimony from a mental health professional, JC's mother, or JC himself. In other words, the trial court's concerns for JC's stability and mental health are based on assumptions regarding the record testimony—the trial court jumped to the conclusion that the stress on the family was negatively impacting JC.

Moreover, JC's mother testified that she did not plan to deny visits with respondent if given the opportunity because it is best for JC to have a relationship with respondent. Therefore, the trial court could have left it up to JC's mother to continue to balance JC's best interests with those of the rest of the family. This approach would have retained respondent's parental rights, while giving JC's mother full discretion over his contact with respondent.

In sum, I do not think that it is too much to ask that, when weighing something that has been compared to a "death penalty," we take the time and resources needed to truly evaluate what is in a child's best interest. On this record, I do not believe that a preponderance of the evidence supported that termination was in JC's best interests. See *In re Moss*, 301 Mich App at 90. To the contrary, I am left with a definite and firm conviction that the trial court made a mistake. See *In re White*, 303 Mich App 701, 709-710; 846 NW2d 61 (2014). Accordingly, I dissent.

/s/ Allie Greenleaf Maldonado