S T A T E O F M I C H I G A N

C O U R T O F A P P E A L S

In the Matter of DESTINI JONES Minor.

DEPARTMENT OF HUMAN SERVICES, Petitioner-Appellee,	UNPUBLISHED April 24, 2007
v VICTOR D. JONES, Respondent-Appellant.	No. 272135 Wayne Circuit Court Family Division LC No. 06-453802-NA

Before: Cavanagh, P.J., and Jansen and Borrello, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(*i*), (g), and (k)(*ii*). We affirm. This appeal is being decided without oral argument. MCR 7.214(E).

The petition requesting termination of parental rights alleged that respondent sexually abused the six-year-old minor child, and that the abuse involved anal penetration. An evidentiary hearing pursuant to MCR 3.972(C)(2) was held. Testimony was heard concerning statements made by the child to the assistant prosecuting attorney at "Kids Talk," a professional interviewing site for sexually abused children. Testimony was also heard concerning statements made by the minor child to her 13-year-old brother and her 21-year-old cousin. The trial court found these statements made by the minor child to be admissible under MCR 3.972(C)(2)(a).

On appeal, respondent objects to the admission of these individuals' testimony at trial. We review the trial court's decision to admit or exclude evidence for an abuse of discretion. *Waknin v Chamberlain*, 467 Mich 329, 332; 653 NW2d 176 (2002). Pursuant to MCR 3.972(C)(2)(a), a statement made by a child under ten years of age regarding sexual abuse or exploitation performed on the child is admissible as substantive evidence through the testimony of the person to whom the child made the statement, provided that "the court has found, in a hearing held before trial, that the circumstances surrounding the giving of the statement provide adequate indicia of trustworthiness."

The trial court did not abuse its discretion in admitting the testimony of the three individuals to whom the minor child made statements about the sexual abuse. The minor child's statements, made at different times, were all consistent regarding the acts that respondent

performed on her. The words she used to describe what happened to her and to describe various body parts were consistent with words that would be used by a six-year-old child. In its decision, the trial court addressed minor inconsistencies in the statements with regard to the frequency and places of the occurrences and appeared to take into account the testimony of the assistant prosecuting attorney, who had been qualified as an expert in interviewing sexually abused children, that children of the minor child's age do not always understand these concepts. The trial court specifically noted that the theme of all of the child's statements was the same, particularly with regard to the acts the child described. The trial court did not abuse its discretion when it allowed this testimony to be introduced into evidence.[1] MCR 3.972(C)(2).

Nor did the trial court err when it found that there was clear and convincing evidence to terminate respondent's parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(*i*), (g), and (k)(*ii*),[2] and when it found that termination was not clearly contrary to the child's best interests. We review a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has established the existence of one or more statutory grounds for termination by clear and convincing evidence, the trial court must terminate the respondent's parental rights unless it determines that to do so is clearly contrary to the child's best interests. *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). In applying the clearly erroneous standard, we recognize the trial court's special opportunity to assess the credibility of the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Clear and convincing evidence established that respondent sexually abused the minor child on multiple occasions. The child was able to describe the acts in detail to several different adults. Her descriptions of the acts of abuse to each of these individuals were quite similar. Further, the words that the child used to describe the acts were appropriate for her age, and enhanced the issue of credibility. An emergency room physician testified that she observed a large rectal fissure, already in the healing process, which was consistent with anal penetration. The testimony of another physician, who examined the child almost two weeks later, was not inconsistent with the emergency room physician's opinion. The second physician testified that he did not see evidence of a fissure, but that a fissure of the type described could have healed by the time he examined the child. In light of this evidence, the trial court did not err in determining that the child had suffered sexual abuse involving penetration and was likely to be abused again

---

[1] Citing *In re Brimer*, 191 Mich App 401; 478 NW2d 689 (1991), respondent contends that the trial court failed to employ the proper methodology for assessing the minor child's statements. On the contrary, we find that the trial court adequately determined that "the nature and circumstances surrounding the hearsay statements provided adequate indicia of trustworthiness." *Id*. at 405. Moreover, we note that the language of MCR 3.972(C) has been amended since this Court's decision in *In re Brimer* was released.

[2] Petitioner apparently sought termination of respondent's parental rights under MCL 712A.19b(3)(b)(*i*), (g), (j), and (k)(*ii*). However, the parties on appeal have addressed only subsections (b)(*i*), (g), and (k)(*ii*), and have not addressed subsection (j). Because only one statutory ground must be proved to terminate parental rights, *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000), we address termination under (b)(*i*), (g), and (k)(*ii*) only.

in the foreseeable future if placed in respondent's home. Clear and convincing evidence supported termination under MCL 712A.19b(3)(b)(*i*), (g), and (k)(*ii*).

Although the trial court did not make a specific best interests determination, MCL 712A.19b(5), no evidence was presented by which the court could have found that termination was clearly contrary to the child's best interests. Therefore the court did not err in failing to make findings on the question of the child's best interests. *In re Gazella*, 264 Mich App 668, 677-678; 692 NW2d 708 (2005). Accordingly, the trial court did not err when it terminated respondent's parental rights.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Stephen L. Borrello