

STATE OF MICHIGAN
COURT OF APPEALS

In re L. H. BARNETT, Minor.

UNPUBLISHED
June 25, 2019

No. 346504
Wayne Circuit Court
Family Division
LC No. 06-458243-NA

Before: CAMERON, P.J., and MARKEY and BORRELLO, JJ.

PER CURIAM.

Respondent father appeals as of right the order terminating his parental rights to his daughter, under MCL 712A.19b(3)(b)(i) (sexual abuse of child and reasonable likelihood child will suffer abuse if returned to parent), (g) (failure to provide child with proper care or custody, although financially able to do so), and (j) (reasonable likelihood child will be harmed if returned to parent). For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

The trial court terminated father’s parental rights at the initial disposition based on its findings that father inappropriately touched his daughter on her chest and buttocks, told her not to tell anyone about the touching, and showed pornographic videos to his daughter that included a video depicting bestiality. On appeal, father argues that the trial court clearly erred when it determined that statutory grounds to support termination had been proven and that termination was in his daughter’s best interests.

II. STANDARD OF REVIEW

We review for clear error the trial court’s decision to terminate parental rights, including both its determination that a statutory ground has been proven and that termination is in the child’s best interests. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). A decision is clearly erroneous if, “although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.” *Id.* (quotation marks and citation omitted). “Clear error signifies a decision that strikes us as more than just maybe or probably wrong.” *Id.* We also give deference “to the special

opportunity of the trial court to judge the credibility of the witnesses who appeared before it.” *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

III. STATUTORY GROUNDS

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011).

In this case, the court determined that petitioner established the statutory grounds for termination found in MCL 712A.19b(3)(b)(i), (g), and (j) by clear and convincing evidence. However, father has not advanced any argument on appeal directed at the trial court’s conclusion under MCL 712A.19b(3)(g). “The failure to brief the merits of an allegation of error constitutes an abandonment of the issue.” *People v Iannucci*, 314 Mich App 542, 545; 887 NW2d 817 (2016) (quotation marks and citation omitted); see also *Froling v Carpenter*, 203 Mich App 368, 373; 512 NW2d 6 (1993). “A party cannot simply assert an error or announce a position and then leave it to this Court to discover and rationalize the basis for [his] claims, or unravel and elaborate for [him his] argument, and then search for authority either to sustain or reject [his] position.” *In re TK*, 306 Mich App 698, 712; 859 NW2d 208 (2014) (quotation marks and citation omitted). Accordingly, we deem any potential claim of error regarding the trial court’s decision to terminate father’s parental rights under MCL 712A.19b(3)(g) abandoned. *Id.*; *Iannucci*, 314 Mich App at 545; *Froling*, 203 Mich App at 373. We may assume for purposes of this opinion that the trial court’s statutory grounds determination was not clearly erroneous. See *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998), overruled in part on other grounds by *In re Trejo*, 462 Mich at 353 & n 10.

Moreover, we have reviewed the record and we are not left with a definite and firm conviction that the trial court was mistaken in determining that petitioner established facts by clear and convincing evidence that satisfied MCL 712A.19b(3)(g), which permits terminating parental rights when “[t]he parent, although, in the court’s discretion, financially able to do so, 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.” It is only necessary to establish one statutory ground as a basis to support terminating a respondent’s parental rights. *In re Ellis*, 294 Mich App at 32. Because at least one statutory ground existed to properly support termination, we need not consider the additional grounds relied upon by the trial court. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).¹

¹ However, we additionally note that we conclude that, at a minimum, the trial court did not clearly err by concluding that clear and convincing evidence supported termination under MCL 712A.19b(3)(j), which provides that parental rights may be terminated if “[t]here 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.” Harm under MCL 712A.19b(3)(j) includes

Additionally, father also argues that the court erred when it failed to order petitioner to provide respondent father with services before terminating his parental rights. “Petitioner, however, is not required to provide reunification services when termination of parental rights is the agency’s goal.” *Id.* at 463. The petition filed in this case was for termination of respondent father’s parental rights, and father’s parental rights were terminated at the initial disposition. Petitioner’s initial goal was termination of parental rights. Thus, petitioner was not required to provide reunification services to respondent father. *Id.*

We conclude that the trial court did not clearly err in determining that there were statutory grounds supporting termination of father’s parental rights.

IV. BEST INTERESTS

MCL 712A.19b(5) states that “[i]f 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 must terminate the parent’s parental rights. The preponderance-of-the-evidence standard applies to the determination whether terminating parental rights is in a child’s best interest. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). “The trial court should weigh all the evidence available to determine the [child’s] best interests.” *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). “To determine whether termination of parental rights is in a child’s best interests, 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.” *Id.* (quotation marks and citation omitted). The focus of the best-interests analysis must be on the child, rather than the parent. *In re Moss*, 301 Mich App at 87-88.

In this case, the trial court found that respondent father inappropriately touched his daughter, told his daughter not to tell anyone about the touching, and showed his daughter pornographic videos. The court concluded that father, who had a previous conviction for third-degree criminal sexual conduct involving a minor, was “grooming” his daughter. Father admitted that he showed three videos to his daughter, and that one of these videos depicted a woman having sex with a dog. The court also found that the daughter did not want a relationship with her father based on the testimony of Latosha Sayle, a Department of Health and Human Services caseworker. Sayle testified that the daughter had indicated that she was unable to forgive father and did not want to ever see him. Sayle believed that the daughter did not have a bond with respondent father. The court also noted that the daughter’s mother was addressing the daughter’s mental health needs. The record evidence supports the trial court’s findings. Thus, the trial court did not clearly err when it determined that petitioner established that termination of father’s parental rights was in the daughter’s best interest by a preponderance of the evidence.

physical as well as emotional harm or abuse. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011).

In conclusion, it was not clearly erroneous for the trial court to terminate father's parental rights to his daughter.

Affirmed.

/s/ Thomas C. Cameron

/s/ Jane E. Markey

/s/ Stephen L. Borrello