If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
September 09, 2026
2:50 PM

In re GRIFFIN, Minors.

No. 378698
Wayne Circuit Court
Family Division
LC No. 2023-002083-NA

Before: M. J. KELLY, P.J., and O'BRIEN and LIEVENSE, JJ.

PER CURIAM.

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

I. BASIC FACTS

This case arises from respondent's extensive sexual abuse of AD. The sexual abuse began after respondent started dating AD's mother and it continued for a few years. The abuse started when AD, who was seven years of age at the time, was living with her mother and respondent in an apartment in Iowa. It continued after they moved into a house together. Additionally, AD described sexual abuse occurring at a hotel when she accompanied respondent on an overnight work trip. The abuse included respondent kissing AD's face, neck, and breasts, touching her vagina with his hand and his penis, having her touch his penis, licking her vagina, and having her lick his penis. AD initially disclosed the abuse to her grandmother in March 2021 and to her mother in April 2021. However, during a subsequent "Kids TALK" interview, she recanted the allegations. Then in 2023, she disclosed the abuse to a neighbor, which led to a second Kids TALK interview and a physical examination. During the interview, AD made disclosures that led to petitioner, the Department of Health and Human Services, filing a petition seeking the termination of respondent's parental rights to KG and CG, AD's half-sisters, at the initial disposition.

Following a combined adjudication trial and termination hearing, the trial court found statutory grounds to take jurisdiction, that there were statutory grounds to terminate respondent's

parental rights to KG and CG, and that termination of respondent's parental rights was in KG and CG's best interests. This appeal follows.

II. AGGRAVATED CIRCUMSTANCES

A. STANDARD OF REVIEW

Respondent first argues that the trial court erred by terminating his parental rights at the initial disposition without first determining that there were aggravated circumstances. Because this issue was not raised in the trial court, our review is for plain error affecting respondent's substantial rights. See *In re MJC*, 349 Mich App 42, 47; 27 NW3d 122 (2023). "To avoid forfeiture under the plain error rule, three requirements must be met: 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *Id*. at 48 (quotation marks and citation omitted).

B. ANALYSIS

"Absent aggravating circumstances, [petitioner] has an affirmative duty to make reasonable efforts to reunify a family before seeking termination of parental rights." *In re Simonetta*, 340 Mich App 700, 707; 987 NW2d 919 (2022). As relevant to this case, MCL 712A.19a(2)(a) provides that reunification efforts are not mandatory if "[t]here is a judicial determination that the parent has subjected the child to aggravated circumstances as provided in" MCL 722.638. Under MCL 722.638(1)(a)(*ii*), aggravating circumstances exist if "a parent has abused the child or a sibling of the child and the abuse included . . . [c]riminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate."

As noted, respondent first asserts that the trial court failed to make a judicial determination regarding aggravated circumstances. The record plainly reflects that, prior to the combined adjudication trial and termination hearing, the trial court did not make the requisite findings of aggravated circumstances. Thus, we must determine whether the failure to make the finding affected respondent's substantial rights. See *In re MJC*, 349 Mich App at 48.

Respondent correctly notes that a prerequisite to a judicial determination of aggravating circumstances is that a "child or a sibling of a child" has been abused. He argues that KG and CG are not siblings of AD, so this prerequisite cannot be met. We disagree. The term "sibling" is defined to "mean a child who is related through birth or adoption by at least 1 common parent." MCL 712A.13a(1)(*l*). KG, CG, and AD are related through birth by one common parent: their mother. They are, therefore, siblings of AD. Because they only need one parent in common, it does not matter that AD is unrelated to respondent through birth or adoption.

Respondent next argues that no sexual penetration, attempted penetration, or assault with intent to penetrate occurred. However, AD disclosed that respondent "licked" the area where she "pees." By statutory definition, sexual penetration includes cunnilingus. MCL 750.520a(r); MCL 722.622(q). Cunnilingus consists of " 'placing the mouth of a person upon the external genital organs of the female which lie between the labia, or the labia itself, or the mons pubes.' " *People v Legg*, 197 Mich App 131, 132-134; 494 NW2d 797 (1992), quoting *People v Harris*, 158 Mich App 463, 470; 404 NW2d 779 (1987). "[T]here is no requirement, if cunnilingus is performed,

that there be something additional in the way of penetration for the sexual act to have been performed." *Harris*, 158 Mich App at 470. Accordingly, the record supports the trial court's finding that respondent's sexual abuse of AD included sexual penetration.

In sum, aggravating circumstances existed in this case because respondent had abused AD, who is a sibling of CG and KG, and the abuse included sexual penetration. As such, respondent cannot establish that his substantial rights were affected by the trial court's failure to expressly make a judicial determination prior to the adjudication trial/termination hearing.

III. STATUTORY GROUNDS

A. STANDARD OF REVIEW

Respondent next argues that the trial court clearly erred by finding statutory grounds to terminate his parental rights. We review for clear error a trial court's finding that there are statutory grounds to terminate a respondent's parental rights. *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). Factual findings are clearly erroneous when we have a definite and firm conviction that a mistake has been made. *Id*. at 709-710. We defer to the trial court's "special opportunity . . . to judge the credibility of the witnesses who appeared before it." *In re MJC*, 349 Mich App at 61 (quotation marks and citation omitted).

B. ANALYSIS

The trial court found that termination of respondent's parental rights was warranted under MCL 712A.19b(k)(*ii*). As relevant to this case, termination is appropriate under MCL 712A.19b(k)(*ii*) if "[t]he parent abused the child or a sibling of the child, the abuse included [criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate], and there is a reasonable likelihood that the child will be harmed if returned to the care of the parent[.]"

Respondent again argues that CG and KG are not siblings of AD and that there was no sexual penetration. However, as explained above, by definition CG and KG are AD's siblings and the trial court's finding that there was sexual penetration is not clear error because AD testified that respondent performed cunnilingus by licking her "pee" area. Thus, the question is whether there was clear and convincing evidence of a reasonable likelihood that CG and KG would be harmed if returned to respondent's care.

The trial court also found that, based upon respondent's sexual abuse of AD, there was a reasonable likelihood that KG and CG would be harmed if returned to respondent's care. Respondent argues that this finding was clearly erroneous because the trial court relied upon the doctrine of anticipatory neglect. We disagree.

"[T]he doctrine of anticipatory neglect allows an inference that a parent's treatment of one child is probative of how that parent may treat other children." *In re Kellogg*, 331 Mich App 249, 259; 952 NW2d 544 (2020). The inference's probative value "is decreased by differences between the children, such as age and medical conditions." *Id*. Respondent notes that there is an age difference. AD is approximately nine years older than KG and approximately ten years older than

CG. Another dissimilarity he directs us to is the fact that he allowed KG and CG to sit on his lap, but that he did not allow AD to do so. Notwithstanding the dissimilarities identified by respondent, we conclude that the probative value of the inference of abuse is not decreased so far as to render the doctrine of anticipatory neglect inapplicable. Respondent's sexual abuse of AD started when she was seven years of age. It involved multiple instances of sexual contact and penetration. Respondent told AD that she would be the one "kicked out" of the house if she disclosed the abuse. At the time, AD called respondent "dad" and he was treating her as if she were his daughter. Ultimately, "abuse is abuse," *In re Mota*, 334 Mich App 300, 323; 964 NW2d 881 (2020). And, given respondent's repeated and ongoing sexual abuse of one prepubescent girl that he treated as a daughter, there is a reasonable likelihood that he posed a danger to his prepubescent daughters. See *id*. ("Although the doctrine is not a perfect fit in this case because LP is not respondent's child, respondent had been raising LP for a number of years as if she were his daughter.").

Respondent also argues that the doctrine of anticipatory neglect should not be applied in this case because the child that he sexually abused is not a sibling of KG and CG. In support, he directs this Court to the recent decision in *In re KV*, ___ Mich App ___; ___ NW3d ___ (2025) (Docket No. 374236), which held that the doctrine of anticipatory neglect cannot be used to find aggravating circumstances under MCL 722.638(1)(a) when a child's parent abuses another child who is *not* a sibling of that child. As explained above, however, KG and CG are AD's siblings because they have the same mother. Moreover, *In re KV* recognized that the doctrine of anticipatory neglect can be used "to establish statutory grounds for termination under MCL 712A.19b(3)." *In re KV*, ___ Mich App at ___; slip op at 7.

In sum, in light of the doctrine of anticipatory neglect and given the extensive sexual abuse that respondent subjected AD to, we find no clear error in the trial court's determination that termination is appropriate under MCL 712A.19b(3)(k)(*ii*).[1]

IV. BEST INTERESTS

A. STANDARD OF REVIEW

Finally, respondent argues that the trial court erred by finding that termination of his parental rights was in KG and CG's best interests. We review the court's best-interest determination for clear error. *In re White*, 303 Mich App at 713.

B. ANALYSIS

The focus during the best-interests stage is on the child, not the parent. *In re Moss*, 301 Mich App at 87. When determining if termination is in a child's best interests, the trial court may consider the bond between the child and the respondent, the respondent's parenting ability, the child's need for stability and permanency, and the advantages of the child's current placement over their parent's home. *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). In most

[1] Because only one statutory ground need to be found, see *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013), we need not address whether termination was proper under the remaining statutory grounds.

cases, it is in the best interests of a child to remain with their siblings. *Id*. The best interests of a child should be decided individually. *Id*. However, if the best interests of the children do not significantly differ, the trial court does not need to make "redundant factual findings." *In re White*, 303 Mich App at 715-716. A child's placement with a relative weighs against termination of parental rights but is not dispositive. *In re Atchley*, 341 Mich App 332, 347; 990 NW2d 685 (2022). Consideration of the doctrine of anticipatory neglect is appropriate in the best-interest analysis. *Mota*, 334 Mich App at 323.

The trial court did not clearly err by finding that termination of respondent's parental rights was in KG and CG's best interests. The court found that KG and CG needed stability and safety, which respondent could not provide. Although KG and CG had a strong bond with respondent, the record reflects that respondent had a bond with AD during the period of time when he was sexually abusing her. At that time, she called him "dad" and they did family activities together. Thus, the existence of a bond does not negate the risk that KG and CG would be sexually abused in respondent's care. The court also found that respondent's sexual abuse of AD demonstrated poor parenting ability. Respondent notes that during parenting time he was observed to behave appropriately with KG and CG during supervised parenting time. But that is not indicative that he can safely parent them. Respondent sexually abused AD only when others were not observing their interactions. Respondent also completed a parenting class three times, but that class did not address sexual abuse. Lastly, the court found that even though the children were placed with their mother, termination of respondent's parental rights was still in their best interests given their need to be safe from sexual abuse. In light of the record in this case, we are not definitely and firmly convinced that the trial court made a mistake in finding that termination of respondent parental rights was in KG and CG's best interests.

Affirmed.

/s/ Michael J. Kelly
/s/ Colleen A. O'Brien
/s/ Andrew J. Lievense