

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANGELIA ILONA WASILENKO
and HARMONY JANE WASILENKO, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LAURA ILONA WASILENKO,

Respondent-Appellant,

and

SAMUEL NICHOLAS WASILENKO,

Respondent.

UNPUBLISHED

July 21, 1998

No. 205026

Wayne Juvenile Court

LC No. 89-279243

Before: Murphy, P.J., and Young, Jr. and Michael R. Smith*, JJ.

MEMORANDUM.

Respondent-appellant Laura Wasilenko (“respondent”) appeals as of right from an order terminating her parental rights to her two daughters pursuant to MCL 712A.19b(3)(c)(i), (g), (i) and (j); MSA 27.3178(598.19b)(3)(c)(i), (g), (i) and (j). We affirm.

Respondent argues that she was deprived of the effective assistance of counsel at the permanent custody trial because her attorney did not move for an adjournment after she failed to appear. We disagree.

* Circuit judge, sitting on the Court of Appeals by assignment.

Because respondent did not request a hearing on this issue in the trial court, our review is limited to errors apparent on the record. *People v Armendarez*, 188 Mich App 61, 74; 468 NW2d 893 (1991).

In order to succeed on a claim of ineffective assistance of counsel, respondent must show that counsel's performance was below an objective standard of reasonableness under prevailing professional norms. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994). Here, the trial court stated that it was persuaded that there had been "appropriate efforts to notify the parents of these proceedings." It is not apparent from the record that an adjournment would have been granted had it been requested. Counsel is not obligated to pursue a matter that would be futile. *People v Daniel*, 207 Mich App 47, 59; 523 NW2d 830 (1994).

Furthermore, respondent has not shown that she was prejudiced by her absence at trial. Counsel's alleged deficient performance must be found to have been prejudicial in order to establish ineffective assistance of counsel. *People v Mitchell*, 454 Mich 145, 165; 560 NW2d 600 (1997). Because respondent never requested an evidentiary hearing, it is not known what evidence or assistance she could have provided had she appeared. The present record offers no reason to believe that the outcome of the proceeding would have been any different had respondent attended.

Affirmed.

/s/ William B. Murphy
/s/ Robert P. Young, Jr.
/s/ Michael R. Smith