STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of REBECCA GARLINGER and JOSEPH GARLINGER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KAREN GARLINGER,

Respondent-Appellant,

and

JAMES GARLINGER,

Respondent.

UNPUBLISHED
April 14, 2000

No. 216848
St. Clair Circuit Court
Family Division
LC No. 98-004102

Before: Gribbs, P.J., and Doctoroff and T. L. Ludington*, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the family court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (g) and (j); MSA 27.3178(598.19b)(3)(b)(ii), (g) and (j). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant argues that the family court abused its discretion by denying her motion to set aside her no contest plea to the temporary custody petition requesting jurisdiction. She argues that her plea was not knowing, understanding and voluntary because it was made pursuant to her counsel's erroneous advice that nothing would happen to her children, and a termination petition was subsequently filed.

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

Under MCR 5.971(C)(1), the trial court cannot accept a plea of admission or plea of no contest without satisfying itself that the plea is knowingly, understandingly and voluntarily made. Here, the record indicates that respondent-appellant understood that, by pleading no contest to the temporary custody petition, the family court could assume temporary jurisdiction of the children. It is also apparent from the comments of respondent-appellant's counsel at the pretrial hearing that respondent-appellant was familiar with the allegations in the temporary custody petition and understood that there was a possibility that a petition to terminate parental rights might ultimately be filed. Apart from respondent-appellant's unsupported claim that counsel erroneously told her that nothing would happen to her children, there is no indication that respondent-appellant was coerced into entering the plea. Therefore, we conclude that the family court did not abuse its discretion in refusing to set aside the plea on the basis that it was not knowingly, understandingly and voluntarily made.

Respondent-appellant also argues that the family court failed to comply with MCR 5.971(B)(4) by advising her of the consequences of her plea, including the possibility that the plea could later be used to terminate her parental rights. She further argues that her plea was not accurate under MCR 5.971(C)(2), because the family court failed to obtain support for a finding that she committed the offense against the child or state why a plea of no contest was appropriate in this case. However, these issues were not raised in respondent-appellant's motion to withdraw in the family court and, therefore, the court did not have the opportunity to address these issues or cure any errors. Accordingly, the issues were not preserved for appeal. *In re Campbell*, 170 Mich App 243, 250; 428 NW2d 347 (1988).

Respondent-appellant also argues that there was no explicit acceptance of her no contest plea by the family court at the pretrial hearing. Although the court did not accept respondent-appellant's plea on the record, the court accepted the plea and made the children temporary court wards pursuant to its written order. The rule is well established that a trial court speaks through its written orders. *People v Davie (After Remand)*, 225 Mich App 592, 600; 571 NW2d 229 (1997), citing *Tiedman v Tiedman*, 400 Mich 571, 576; 255 NW2d 632 (1977). There was no error.

Finally, the family court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, respondent-appellant failed to show that termination of her parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Thus, the family court did not err in terminating respondent-appellant's parental rights to the children. *Id.*

Affirmed.

/s/ Roman S. Gribbs
/s/ Martin M. Doctoroff
/s/ Thomas L. Ludington