STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of AS, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AARON MICHAEL STACILAUSKAS,

Respondent-Appellant,

and

MEGAN SPRIKS,

Respondent.

UNPUBLISHED
May 1, 2001

No. 228233
Delta Circuit Court
Family Division
LC No. 99-000063-NA

In the Matter of PS, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AARON MICHAEL STACILAUSKAS,

Respondent-Appellant,

and

MEGAN SPRIKS,

Respondent.

No. 228234
Delta Circuit Court
Family Division
LC No. 99-000064-NA

Before: Hoekstra, P.J., and Whitbeck and Cooper, JJ.

PER CURIAM.

Respondent-appellant Aaron Stacilauskas (hereinafter "respondent") appeals as of right from the family court's order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g). We affirm.

Respondent claims that petitioner should have been estopped from initiating termination proceedings on the basis of its alleged failure to follow a court-ordered reunification plan. Because respondent did not present this estoppel argument to the family court, our review of this issue is limited to determining whether respondent has shown a plain error affecting his substantial rights. Cf. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999); *In re Snyder*, 223 Mich App 85, 92; 566 NW2d 18 (1997). Although respondent asks this Court to consider the "structure of the statute" and the "entire statutory scheme in child neglect cases," he neither argues nor identifies any specific statutory violation. Thus, respondent has failed to show that the supplemental petition requesting termination was filed contrary to law. *In re JS & SM*, 231 Mich App 92, 98; 585 NW2d 326 (1998). Accordingly, considered in this context, respondent has not established any plain basis for applying the principle of equitable estoppel.

Furthermore, the statutory scheme with regard to termination proceedings is intended to protect children. *In re Brock*, 442 Mich 101, 108; 499 NW2d 752 (1993). Also, while increasing emphasis has been provided by our Legislature to prevent children from drifting in the juvenile system without permanent placement, *In re Marin*, 198 Mich App 560, 567; 499 NW2d 400 (1993), the comprehensive statutory scheme also contemplates judicial oversight of services provided to a respondent during child protection proceedings. See *Martin v Children's Aid Society*, 215 Mich App 88, 98; 544 NW2d 651 (1996). An evaluation of those services would also be relevant in determining whether the petitioner has meet its burden of proving a statutory ground for termination by clear and convincing evidence. *In re Newman*, 189 Mich App 61, 66-67; 472 NW2d 38 (1991). In this context, absent our Legislature's recognition of an estoppel theory, we find no plain basis for concluding that petitioner was estopped from seeking a judicial determination on whether respondent's parental rights should be terminated. Cf. *Van v Zahorik*, 460 Mich 320, 336; 597 NW2d 15 (1999).

Respondent also challenges the family court's dispositional ruling at the permanency planning hearing, whereby it ordered petitioner to initiate termination proceedings pursuant to MCL 712A.19a; MSA 27.3178(598.19a). We conclude, however, that this issue is moot because it does not afford respondent any basis for relief. The family court's ultimate authority to consider whether respondent's parental rights should be terminated was not dependent on a permanency planning hearing but, rather, was limited by the requirement that a request for termination be made in an original, amended or supplemental petition. MCR 5.974(A)(2); see also *In re Marin*, *supra* at 567-568. Because respondent has not demonstrated any basis for attacking the validity of the supplemental petition requesting termination in this case, the material question before us concerns the propriety of the family court's ultimate decision to terminate respondent's parental right. Keeping in mind that child protection proceedings are viewed as one continuous proceeding, *In the Matter of LaFlure*, 48 Mich App 377, 391; 210

NW2d 482 (1973), we conclude that the prior dispositional ruling directing petitioner to file a petition requesting termination is moot and, therefore, decline to address it. *City of Jackson v Thompson-McCully Co, LLC,* 239 Mich App 482, 493; 608 NW2d 531 (2000).

Next, respondent argues that the family court erred in finding that subsections 19b(3)(c)(i) and (g) were both established. Having considered respondent's various arguments regarding the case service plan, the doctrine of anticipatory neglect, see *In the Matter of LaFlure*, *supra* at 392, and the family court's findings, we are not persuaded that the family court clearly erred in finding that § 19b(3)(g) was established by clear and convincing evidence. MCR 5.974(I); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). See also *In re Powers*, 208 Mich App 582; 528 NW2d 799 (1995). While it is unclear from the family court's decision whether the court properly limited its analysis of § 19b(3)(c)(i) to the conditions that led to adjudication, because only one statutory ground for termination is required, *In re Sours Minors*, *supra* at 641, and because the court did not err in finding that § 19b(3)(g) was established, it is unnecessary to determine whether termination was proper under § 19b(3)(c)(i).

Finally, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341; 612 NW2d 407 (2000). Therefore, the family court did not err in terminating respondent's parental rights to both children. *Id.*

Affirmed.

/s/ Joel P. Hoekstra
/s/ William C. Whitbeck
/s/ Jessica R. Cooper