

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CLARK TROTTIER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DEBORAH WHITEFOOT,

Respondent-Appellant,

and

DAVID WHITEFOOT,

Respondent.

In the Matter of MORGAN WHITEFOOT, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DEBORAH WHITEFOOT,

Respondent-Appellant,

and

DAVID WHITEFOOT,

Respondent.

UNPUBLISHED

May 8, 2008

No. 279767

Macomb Circuit Court

Family Division

LC No. 2006-000166-NA

No. 280105

Macomb Circuit Court

Family Division

LC No. 2006-000168-NA

In the Matter of MARIAH WHITEFOOT, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DEBORAH WHITEFOOT,

Respondent-Appellant,

and

DAVID WHITEFOOT,

Respondent.

No. 280106
Macomb Circuit Court
Family Division
LC No. 2006-000167-NA

Before: White, P.J., and Hoekstra and Smolenski, JJ.

PER CURIAM.

In these consolidated appeals, respondent Deborah Whitefoot appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 710.29(7) (termination pursuant to voluntary release). We affirm.

Respondent first argues that the trial court erred in finding, during the various hearings that were held, that petitioner made a reasonable effort to assist her with reunification. This issue was not raised below and, accordingly, has not been preserved for appeal. *Rooyakker & Sitz, PLLC v Plante & Moran, PLLC*, 276 Mich App 146, 162; 742 NW2d 409 (2007). Therefore, the issue is reviewed for plain error. *Kloian v Schwartz*, 272 Mich App 232, 242; 725 NW2d 671 (2006). Generally, when a child is removed from the custody of the parents, petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan. MCL 712A.18f(1), (2), and (4). The record clearly shows that petitioner established a service plan for achieving reunification and gave respondent referrals to various service providers, but respondent failed to comply. In any event, while petitioner's failure to work with a parent toward reunification may preclude a finding that termination is warranted under MCL 712A.19b(3)(c)(i) or (g), *In re Newman*, 189 Mich App 61, 66-68; 472 NW2d 38 (1991), the trial court was not required to find that termination was warranted under either ground because respondent voluntarily relinquished her parental rights.

Respondent next argues that the trial court erred in terminating her parental rights because petitioner failed to prove a statutory ground for termination by clear and convincing evidence and because termination was clearly contrary to the children's best interests. However,

respondent's argument relies on the statutory provisions regarding involuntary termination, which are inapplicable to the voluntary release that took place in this case. Thus, we reject this claim of error.

Involuntary termination under MCL 712A.19b(3) requires that at least one statutory ground for termination be proven by clear and convincing evidence. *In re Archer*, 277 Mich App 71, 73; 744 NW2d 1 (2007); MCR 3.977(G)(3). Once that showing has been made, the court is required to order termination unless it finds "that termination of parental rights to the child is clearly not in the child's best interests." MCL 712A.19b(5). Although petitioner sought involuntary termination of respondent's parental rights, respondent ultimately agreed to voluntarily relinquish her parental rights. A release "is valid if executed in accordance with the law at the time of execution." MCR 3.801(B). To be valid, it must be executed by the parent before a judge or referee. MCL 710.28(1)(a); MCL 710.29(1). Before the release is executed, the court must fully explain to the parent her legal rights and the fact that the release operates as a voluntary permanent relinquishment of parental rights to the child. Where a child is over the age of five, the court must also determine that the child "is best served by the release." MCL 710.29(6); *In re Blankenship*, 165 Mich App 706, 711-712; 418 NW2d 919 (1988).

The statutory procedures were followed in this case. The trial court explained respondent's rights to her and respondent stated on the record that a release of her parental rights was in the children's best interests because they were with a family that could support them and provide the stability they required. She then executed the appropriate release forms. Once the release is executed, the court shall immediately issue an order terminating the parent's parental rights and the child becomes a state ward. MCL 710.28(8); MCL 710.29(7). Respondent has not established any basis for relief from the trial court's order.

Affirmed.

/s/ Helene N. White

/s/ Joel P. Hoekstra

/s/ Michael R. Smolenski