

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHLEIGH MACARTHUR,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

HILLARY DAUBERT,

Respondent-Appellant,

and

JASON MACARTHUR,

Respondent.

UNPUBLISHED

January 20, 2009

No. 286290

Macomb Circuit Court

Family Division

LC No. 2007-000150--NA

Before: Talbot, P.J., and Bandstra and Gleicher, JJ.

PER CURIAM.

Respondent Hillary Daubert appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent does not contest the trial court's finding that clear and convincing evidence established the statutory grounds to terminate her parental rights but argues that the trial court erred in finding termination of her parental rights was in the minor child's best interests. In addition, she cites several claims of error relating to conduct of the termination pretrial and hearing.

Once the trial court finds a statutory ground to terminate a respondent's parental rights has been established, the court is mandated to do so unless evidence on the entire record shows that termination of parental rights is clearly contrary to the child's best interests. MCL

712A.19b(5)¹; *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). In this case, the trial court did not err in making the affirmative finding that termination was in the minor child's best interests. The evidence showed a bond existed between respondent and the minor child, but respondent failed to maintain, strengthen, or promote that bond during the ten months she was provided visits and telephone contact with her daughter. The bond deteriorated to the extent that the child was continually disappointed by respondent's failure to visit or call and requested that telephone contact cease. From the outset of the proceedings, the minor child realized respondent was unable to properly care for her, and during the following year respondent demonstrated no progress in treating the mental health issues that contributed to the conditions of adjudication. The minor child was happy in placement with relatives, where her physical, emotional, and educational needs were met, and by the end of the proceedings expressed a desire to remain in that home.

Respondent also contends several instances of alleged error relating to conduct of the termination pretrial and hearing. Specifically, respondent claims with regard to judicial waiver: (1) that the pretrial was improperly held because she did not waive her demand for a judge until the close of the pretrial hearing; (2) respondent did not fully understand her waiver of the judge demand or its effect; and (3) respondent did not execute the waiver in writing. Respondent also claims error asserting that the referee failed to advise her of the right to request a review of the decision by a judge pursuant to MCR 3.991(B) and that the termination hearing was improper because it was conducted by a referee different than the one who had conducted prior hearings in respondent's case.

Respondent did not raise these various claims of error in the trial court, and therefore did not properly preserve them for appellate review. *Phinney v Perlmutter*, 222 Mich App 513, 544; 564 NW2d 532 (1997). Consequently we review unpreserved constitutional and non-constitutional issues for plain error affecting substantial rights. *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000). Respondent does not identify in her two-page argument on appeal any detrimental or prejudicial effect resulting from these alleged errors or cite supporting authority. An appellant may not merely announce a position and then leave it "to this Court to discover and rationalize the basis for his claims," *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998); *People v Leonard*, 224 Mich App 569, 588; 569 NW2d 663 (1997), or "give issues cursory treatment with little or no citation of supporting authority," *Peterson Novelties v Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). Because respondent failed to adequately brief the issues pertaining to judicial waiver, she has effectively abandoned them on appeal. MCR 7.212(C)(7); *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002).

Respondent additionally claims error regarding two instances not directly related to her waiver of a judge. Specifically, the evidence showed the referee failed to provide respondent

¹ MCL 712A.19b(5) has been amended, effective July 11, 2008, to require that the trial court make an affirmative finding that termination of a parent's parental rights is in the best interest of the child. 2008 PA 199. The amended statute does not affect the instant case because the termination order was entered on June 13, 2008.

with advice regarding her right to file a request for review of the referee's recommended findings and conclusions, as required by MCR 3.913(C).² However, no new orders were entered regarding respondent during the pretrial hearing other than the beneficial order, which dismissed her other child from the termination petition. Consequently, there existed no reason for respondent to request a review of the referee's decision. Therefore, although the referee erred in failing to provide this advice, the error did not negatively impact respondent's substantial rights and was harmless. Further, appellate advice was provided at the close of the termination hearing.

Finally, although the referee who conducted the termination hearing was different from the one who conducted respondent's review and permanency planning hearings, respondent merely notes this fact and does not identify any resulting harm or prejudice, or cite authority supporting her claim that this constituted error. Thus, this issue is also deemed abandoned on appeal. *Yee, supra* at 406.

Affirmed.

/s/ Michael J. Talbot
/s/ Richard A. Bandstra
/s/ Elizabeth L. Gleicher

² MCR 3.913(C) provides, "During a hearing held by a referee, the referee must inform the parties of the right to file a request for review of the referee's recommended findings and conclusions as provided in MCR 3.991(B)."