STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of CHARLES C. SEGREST-BROOKS and CARLA CHRISTAL SEGREST-BROOKS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CHARLETTE CHRISTIDIANA SEGREST, a/k/a CHARLETTE CHRISTIDIANA SEGREST-BROOKS,

Respondent-Appellant.

UNPUBLISHED
October 20, 2009

No. 288794
Wayne Circuit Court
Family Division
LC No. 06-459668-NA

Before: Fort Hood, P.J., and Sawyer and Donofrio, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to the minor children pursuant to MCL 712a.19b(3)(a)(ii), (c)(i), (g) and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent first argues that the trial court erred by failing to ensure that she received proper notice of the hearing concerning the termination of her parental rights. Respondent's attorney, who attended the hearing, did not raise this issue below, and therefore, it is unpreserved. *Adam v Sylvan Glynn Golf Course*, 197 Mich App 95, 98; 494 NW2d 791 (1992). Unpreserved constitutional issues are reviewed for plain error affecting substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

A parent of a child who is the subject of a child protective proceeding is entitled to personal service of a summons and notice of proceedings. *In re SZ*, 262 Mich App 560, 564-565; 686 NW2d 520 (2004); MCL 712A.12; MCR 3.920(B)(4)(a). However, MCR 3.920(B)(4)(b) allows for substitute service:

> If the court finds, on the basis of testimony or a motion and affidavit, that personal service of the summons is impracticable or cannot be achieved, the court may by ex parte order direct that it be served in any manner reasonably calculated

> to give notice of the proceedings and an opportunity to be heard, including publication.

In addition, MCL 712A.13 governs substitute service and provides in relevant part:

> Service of summons may be made anywhere in the state personally by the delivery of true copies thereof to the person summoned: Provided, That if the judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to their last known addresses, or by publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if (1) personal service is effected at least 72 hours before the date of hearing; (2) registered mail is mailed at least 5 days before the date of the hearing if within the state or 14 days if outside of the state; (3) publication is made once in some newspaper printed and circulated in the county in which said court is located at least 1 week before the time fixed in the summons or notice for the hearing.

Here, petitioner's caseworker testified that she had attempted to serve respondent at the Ann Arbor address respondent provided to her. The caseworker saw respondent on May 15, 2008, and told respondent about the upcoming bench trial. The caseworker also asked respondent about her address. Respondent reiterated that the Ann Arbor address was her current address, but also stated that she was "sort of" living in shelters. During the termination hearing, the trial court asked the caseworker whether respondent's mother, who was caring for the children, had any other address for respondent. The caseworker replied that she did not. The trial court noted that service had been attempted both personally and through certified mail, without success. It then found that personal service was impractical, and that respondent was duly notified by publication on April 29, 2008.

Nothing in the procedure above points to error on the part of the trial court. Respondent provided petitioner with an invalid address. While she was apparently actually residing in one or more shelters, she did not provide those addresses to the caseworker, even after she was told of the upcoming bench trial. Nor did she provide them to her mother. Respondent's contention that petitioner could have attempted to comb the area's homeless centers is without merit. Her contention that petitioner could have gotten an accurate address from her ex-husband also lacks merit. Under the circumstances, we conclude that the trial court did not err when it found that personal service was impractical and that service by publication was adequate here.

Respondent next argues that petitioner did not present sufficient evidence of grounds for termination of respondent's parental rights. The petitioner has the burden of proving a statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). We review the trial court's findings of fact for clear error. MCR 3.977(J). A finding of fact is clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Deference is accorded to the trial court's assessment of the credibility of the witnesses who appeared before it. *Id.*; MCR 2.613(C). An order terminating parental rights need be supported by only a single statutory ground. *In re Trejo*, *supra*; MCL 712A.19b(3).

MCL 712A.19b(3)(a)(ii) provides that a court may terminate parental rights if it determines that, "[t]he child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period." Here, respondent abandoned the children from the time they were removed from her home in September 2006 until the date of the May 28, 2008 hearing. This constituted a period of time of far more than 91 days. Respondent never arranged visitation through petitioner. Nor has respondent presented any evidence that she attempted to contact the children while they resided with her mother. Abandonment was demonstrated by respondent's ambivalence toward Charles' severe medical problems during this time. Respondent also failed to seek custody of the children by contacting petitioner. In addition, respondent provided no reason for her lengthy disappearances and presented no evidence that she tried to avail herself of any services elsewhere. The trial court properly determined that petitioner presented clear and convincing evidence of this ground for termination of respondent's parental rights.

Under MCL 712A.19b(3)(c)(i), a court may terminate parental rights if it determines that, "[t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." Under MCL 712A.19b(3)(g), a court may terminate parental rights if it determines that, "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." MCL 712A.19b(3)(j) provides that a court may terminate parental rights if it determines that, "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent."

Petitioner presented clear and convincing evidence of each of these grounds for termination of respondent's parental rights. Respondent's lack of any participation in the children's lives, or her parent-agency plan, and her failure to even contact petitioner for lengthy periods of time support the trial court's finding. Her lack of concern about Charles' medical conditions, the reason he and Carla were taken into care in the first place, did not appreciably change throughout these proceedings. At the time of trial, respondent was homeless, had no income, and had also failed to complete any other goals of the parent-agency agreement. Given this evidence, the trial court did not err in finding that the conditions that led to the adjudication continued to exist, and that respondent could not provide proper care and custody of the children. The evidence concerning respondent's inability to provide care and custody, along with her apparent untreated mental health issues, also supports the conclusion that it is reasonably likely that the children would be in danger of further harm if they were returned to respondent.

In conjunction with her arguments concerning whether grounds for termination existed here, respondent argues that the fault lies with petitioner for failing to provide more services to her. In general, when a child is removed from a parent's custody, the 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); *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). However, respondent's argument ignores her own responsibility for petitioner's inability to help her. According to testimony by petitioner's caseworker, petitioner spent considerable effort simply trying to locate respondent initially. Respondent refused on several occasions to provide her contact information, and refused to speak with the caseworker

on other occasions. After her disappearance, her contacts with the caseworker were sporadic. Respondent later provided an invalid address to petitioner's caseworker. Despite respondent's lack of any cooperation, petitioner's caseworker made reasonable efforts to help her. Respondent was sent a copy of the parent-agency plan, and she signed and returned it. Notwithstanding respondent's continued lack of contact, petitioner's caseworker made referrals for a psychiatric evaluation and for parenting classes, which were transmitted to respondent, and respondent was also referred for individual counseling. Respondent did not avail herself of any of these services. Nor did respondent contact petitioner to even set up visitation after it was authorized. There was no evidence presented that respondent required more services than were being offered. There was also no evidence that more services would have prevented respondent from completely abandoning the case service plan as she did here. Under these circumstances, the trial court did not clearly err by finding that reasonable efforts were made to reunify respondent with her children.

Affirmed.

/s/ Karen M. Fort Hood
/s/ David H. Sawyer
/s/ Pat M. Donofrio