

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JORDAN MICHELLE ELKINS,
CASSAUNDR A MARIE ELKINS, and CIARA
RENEE ELKINS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DENNIS ELKINS,

Respondent-Appellant.

UNPUBLISHED

January 5, 2006

No. 264510

Tuscola Circuit Court

Family Division

LC No. 04-008928-NA

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights following his voluntary release of parental rights. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent challenges the trial court's investigation into whether his parental rights release was voluntarily made. See MCL 710.29(6). We review for abuse of discretion a trial court's investigation into a respondent's release of parental rights. *In re Blankenship*, 165 Mich App 706, 714; 418 NW2d 919 (1988). Respondent essentially concedes that his claimed errors are not apparent from the lower court record. However, we are generally limited to claims based on the record, MCR 7.210(A), and it is respondent's obligation to create a sufficient record for our review. *Petraszewsky v Keeth (On Remand)*, 201 Mich App 535, 540; 506 NW2d 890 (1993). The record reflects that the trial court followed all of the required procedures for the voluntary release of parental rights, and we see no reason to look beyond the record in this case.

First, there is no evidence that respondent did not understand his right to counsel. At each hearing, the trial court reiterated that it would appoint counsel for respondent if he wished. Further, the notices of hearing, with which respondent was personally served, indicate in writing that respondent could have counsel and should request counsel as soon as possible if he wished to have counsel at the hearing. There is no evidence on the record that respondent did not understand his right to counsel.

Second, there is no indication that respondent would not have released his parental rights if he had known that his children were living with their stepfather. Before releasing his parental rights, respondent asked the court questions about the status of the children's mother's parental rights and these questions were answered. Respondent had the opportunity to ask further questions or to decide against voluntarily releasing his parental rights at that time. The record before us does not indicate that respondent conditioned his release on the children's living arrangements, nor does it indicate respondent's ignorance of the living arrangements. In short, we agree with respondent that the record fails to substantiate his claims' underlying facts, so we need not address their legal merit. The trial court did not abuse its discretion in its investigation of respondent's release or commit any other error in terminating respondent's parental rights.

Affirmed.

/s/ Peter D. O'Connell

/s/ Michael R. Smolenski

/s/ Michael J. Talbot