STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of DANELL LAMONT COOPER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JAMES CROSS, a/k/a JORDAN CROSS,

Respondent-Appellant,

and

DIAMOND LATRICE COOPER,

Respondent.

UNPUBLISHED
May 4, 2010

No. 294283
Kent Circuit Court
Family Division
LC No. 09-050970-NA

Before: MURPHY, C.J., and SAWYER and HOEKSTRA, JJ.

PER CURIAM.

Respondent-appellant appeals as of right the order terminating his parental rights pursuant to his voluntary consent to termination. We affirm.

Respondent contends that the trial court erred in accepting his plea because it was not knowingly, voluntarily, or understandingly made. Respondent did not move to withdraw his plea in the lower court. Thus, this issue is not preserved. *In re Zelzack,* 180 Mich App 117, 126; 446 NW2d 588 (1989). This Court reviews unpreserved claims for plain error that affected substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

We find, on the record before us, that the plea was knowingly, understandingly, and voluntarily made. Respondent pled to the allegations in the supplemental petition, and thus, effectively consented to the termination of his parental rights. At the termination hearing, respondent, who was represented by counsel, initially expressed a concern with the petition.

Respondent stated that he had family who would take care of the child and did not want to "give up" on his son. The trial court responded to this concern by stating that it would not guarantee who would be able to adopt the child. The trial court also told respondent that if he needed such information, then he could proceed with a trial. However, the record demonstrates that respondent never thereafter indicated that he did not want to enter a plea, nor that he wished to proceed with a hearing on the termination petition. While respondent was told to speak up so that the microphone could pick up his voice, the record does not demonstrate that respondent was hesitant in admitting to the allegations in the petition. Respondent was fully informed that no guarantee could be made about the adoption of the child. He was then informed that he had the right to an attorney, that he had the right to a trial where the prosecutor had to prove the petition by clear and convincing evidence, and that he had the right to have witnesses testify. He acknowledged that he understood these rights. He then voluntarily pled to the allegations in the petition and informed the trial court that no promises or threats were made to force him to admit to the petition. We find that the trial court did not err in finding that respondent's consent was knowingly, understandingly, and voluntarily made.

Respondent next contends that the trial court erred by failing to advise him that a consequence of his voluntary consent to termination was that it could be used later to terminate his parental rights to future children, pursuant to MCR 3.971(B)(4). Respondent's argument is extremely cursory and provides no elaboration. An appellant may not merely announce his position and then leave it up to this Court to rationalize the basis for such claim, nor may he give the issue cursory treatment with little to no supporting authority. *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). "An appellant's failure to properly address the merits of his assertion of error constitutes abandonment of the issue." *Id.*

Furthermore, assuming that MCR 3.971(B)(4) applies to a supplemental petition to terminate parental rights and applies beyond the adjudication stage, the failure to comply with (B)(4) does not warrant reversal under the circumstances presented. MCR 3.902(A), which is applicable in juvenile code proceedings, provides that "[l]imitations on corrections of error are governed by MCR 2.613." MCR 2.613(A) provides that "an error or defect in anything done or omitted by the court . . . is not ground for . . . vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take this action appears to the court inconsistent with substantial justice." In *In re Utrera*, 281 Mich App 1, 13-14; 761 NW2d 253 (2008), this Court applied MCR 3.902(A) and MCR 2.613(A) to procedural defects in child protective proceedings, finding that there was no need to set aside a termination order. Here, we first note that the trial court carefully advised respondent of all his rights and the rights that he was giving up, with the lone error relating to MCR 3.971(B)(4), and respondent was represented by counsel. Further, respondent's appellate brief does not state that the court's failure to comply with MCR 3.971(B)(4) impacted his decision to voluntarily consent to the termination of his parental rights. There is no claim or argument whatsoever that had the court informed respondent consistently with MCR 3.971(B)(4), he would not have consented to relinquishing his parental rights. Finally, termination was sought, in part, under MCL 712A.19b(3)(h), which provides for termination when "[t]he parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, 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." There is no dispute that respondent is currently serving a 40-year minimum prison sentence for a litany of felony offenses. For all of the reasons stated above, we cannot find that affirming the order terminating parental rights is inconsistent with substantial justice.

Affirmed.

/s/ William B. Murphy
/s/ David H. Sawyer
/s/ Joel P. Hoekstra