# STATE OF MICHIGAN

# COURT OF APPEALS

UNPUBLISHED
July 15, 2010

In the Matter of K. CAMPBELL, L. CORNELIUS, Q. CAMPBELL, and B. CORNELIUS, Minors.

No. 295545
Berrien Circuit Court
Family Division
LC No. 08-000067-NA

Before: TALBOT, P.J., and FITZGERALD and DAVIS, JJ.

PER CURIAM.

Respondent-appellant L. N. Campbell appeals as of right the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(*i*) [conditions leading to adjudication continue to exist], (g) [failure to provide proper care] and (j) [reasonable likelihood of harm if children returned to parent's care]. We affirm.

A petition was filed alleging that respondent's children were begging the neighbors for food, that respondent was using cocaine and marijuana, and that respondent had given her Bridge card to a drug dealer. Respondent entered a no contest plea, and the trial court assumed jurisdiction. Respondent contends that the trial court violated her due process rights when it failed to advise her that her plea could later be used in a proceeding to terminate her parental rights. This argument is not properly preserved for appeal because it is not included in the statement of questions presented. MCR 7.212(C)(5). In addition, respondent failed to raise this issue below. Thus, there is no decision by the trial court for this Court to review. *In re Zelzack*, 180 Mich App 117, 126; 446 NW2d 588 (1989).

Nevertheless, we have considered the issue and find that the trial court did not plainly err.[1] MCR 3.971(B)(4) provides that "[b]efore accepting a plea of admission or plea of no contest, the court must advise the respondent on the record or in a writing that is made a part of the file":

> (4) of the consequences of the plea, including that the plea can later be used as evidence in a proceeding terminating parental rights if the respondent is a parent.

[1] Unpreserved constitutional claims are reviewed for plain error affecting substantial rights. *In re Williams*, 286 Mich App 253, 274; 779 NW2d 286 (2009).

In *In re Le*, 278 Mich App 1, 22; 747 NW2d 883 (2008), this Court stated:

> Well-established principles guide this Court's statutory [or court rule] construction efforts. We begin our analysis by consulting the specific . . . language at issue. This Court gives effect to the Legislature's intent as expressed in the statute's terms, giving the words their plain and ordinary meaning. When the language poses no ambiguity, this Court need not look beyond the statute or construe the statute, but need only enforce the statute as written. This Court does not interpret a statute in a way that renders any statutory language surplusage . . . . [Internal citations and quotation marks omitted.]

Before accepting respondent's plea of no contest, the trial court asked respondent if she had signed a form before coming to court, and she replied in the affirmative. Respondent acknowledged that she also had the opportunity to speak with her attorney about the form before affixing her signature. This form, which is included in the lower court file, advised respondent that if the court accepted her plea of no contest, then the information provided in support of the plea could be used as evidence to terminate her parental rights. Although the trial court did not advise respondent of this consequence on the record, we find that respondent was properly advised of such consequence in a writing that was made part of the lower court file, as required by the plain language of the court rule. Therefore, there was no plain error. *In re Williams*, 286 Mich App 253, 274; 779 NW2d 286 (2009).

Respondent next contends that the trial court erred in terminating her parental rights under MCL 712A.19b(3)(c)(*i*) and (g). The trial court must find that at least one statutory ground for termination set forth in MCL 712A.19b(3) has been proven by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). If at least one ground is proven, then the trial court must terminate the parental rights if it finds that termination is in the child's best interests. MCL 712A.19b(5); *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). This Court reviews for clear error both the trial court's findings that a ground for termination has been established and the findings regarding the child's best interests. MCR 3.977(J); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009).

The trial court found that the issues existing at the time of removal were substance abuse, emotional stability, parenting skills, housing, and employment. Evidence revealed that respondent did not fully comply with substance abuse treatment, drug screens, and counseling sessions and that she did not have stable employment and suitable housing at the time of the termination hearing. This Court has found that the respondent's persistent failure to gain control over a substance abuse problem, despite extensive treatment and counseling, constituted sufficient grounds for termination under MCL 712A.19b(3)(c)(*i*) and (g). *In re Conley*, 216 Mich App 41, 44; 549 NW2d 353 (1996). Evidence showed that respondent continued to use illegal substances off and on during the proceedings, which spanned 16 months from inception to termination, and that she was not able to maintain four consecutive months of sobriety, despite being offered services with the Health Department and counseling sessions. Evidence also showed that at the time of the termination hearing, respondent did not have suitable housing or stable employment. Respondent contends that the trial court should have delayed terminating her parental rights for at least an additional four to six months. However, in *In re Dahms*, 187 Mich App 644, 647; 468 NW2d 315 (1991), cited by respondent, this Court stated that the language contained in MCL 712A.19b(3)(c)(*i*), there is no reasonable likelihood that the

conditions will be rectified within a reasonable time considering the age of the child, indicated "that the Legislature did not intend that children be left indefinitely in foster care, but rather that parental rights be terminated if the conditions leading to the proceedings could not be rectified within a reasonable time." We find that petitioner proved, by clear and convincing evidence, that the conditions that led to adjudication would not be rectified within a reasonable time considering the children's ages, MCL 712A.19b(3)(c)(*i*), and that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering the children's ages, MCL 712A.19b(3)(g). *In re Sours,* 459 Mich at 634-635.

Respondent next contends that termination was not warranted under MCL 712A.19b(3)(j). Respondent fails to explain or rationalize how the trial court erred in finding that there was a reasonable likelihood that the children would be harmed if returned to her care. Rather, she again argues that she should have been given additional time to make the necessary progress. Because of respondent's recurring episodes of substance use, and her failure to fully participate in services offered to her and benefit from such services, it was reasonably likely that the children would be harmed if returned to her care. See *In re Shawboose,* 175 Mich App 637, 641; 438 NW2d 272 (1989), where this Court noted that the respondent's alcohol use, together with her denial of this problem, disinclination to correct it, and failure to cooperate with treatment, resulted in neglect, which "posed serious threats to her children's future welfare." Thus, we find that the trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(j). *In re Rood,* 483 Mich at 90-91.

We acknowledge that testimony was elicited that the children had a bond with respondent and that she was appropriate with the children during visits. However, respondent was not able, at the time of the termination hearing, to provide the children with a safe and stable environment. The caseworker testified that the children deserved "some sort of permanence." The caseworker further opined:

> And at this point I don't feel that any of the parents are able to provide them with that permanence, and I don't foresee a time in the near future that that would be possible. I think that it's been difficult enough on particularly the girls to try and understand what's going on. And I think that they need something to be definite at this point in time to move on with things in one way or another."

According to the caseworker, the girls were placed with a paternal aunt and the boys were placed in licensed foster care. The children were reported as doing well.

Based on the evidence of record, we find that the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5).

Affirmed.

/s/ Michael J. Talbot
/s/ E. Thomas Fitzgerald
/s/ Alton T. Davis