

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* TRUE/RAMOS, Minors.

UNPUBLISHED  
February 15, 2018

No. 340088  
Berrien Circuit Court  
Family Division  
LC No. 2016-000083-NA

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Before: MARKEY, P.J., and M. J. KELLY and CAMERON, JJ.

PER CURIAM.

Respondent-mother appeals by right the circuit court’s August 10, 2017 order terminating her parental rights to the minor children, RT, BT, JR, and YR, under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care or custody), and MCL 712A.19b(3)(j) (reasonable likelihood children would be harmed if returned). We affirm.

Mother argues that her constitutional rights were violated when the trial court terminated her parental rights. Whether child protective proceedings complied with a parent’s right to due process is a question of constitutional law that is reviewed de novo by this Court. *In re Sanders*, 495 Mich 394, 403-404; 852 NW2d 524 (2014). Because mother did not raise a constitutional challenge to the order terminating her parental rights or the findings supporting it at the trial court level, we review her unpreserved constitutional claims for plain error affecting substantial rights. *In re Williams*, 286 Mich App 253, 274; 779 NW2d 286 (2009). An error affects substantial rights when it affects the outcome of the proceedings. *In re Utrera*, 281 Mich App 1, 9; 761 NW2d 253 (2008). Even if the trial court committed plain error, this Court will not reverse unless the error is so serious that it affects the fairness, integrity or public reputation of judicial proceeding. *Id.*

“[D]ue process precludes a government from interfering with parents’ fundamental liberty interest in making decisions regarding the care, custody, and control of their children absent a compelling state interest.” *In re AP*, 283 Mich App 574, 591; 770 NW2d 403 (2009). To comport with due process, the trial court “must provide the parents with fundamentally fair procedures.” *Santosky v Kramer*, 455 US 745, 753-754; 102 S Ct 1388; 71 L Ed 2d 599 (1982).

Although mother cites a myriad of sources reaffirming her constitutional right and the requirement of fundamentally fair procedures, she does not specifically state how the procedures she was granted were not fundamentally fair. She merely argues that a fundamentally fair procedure would permit her to work toward reunification while her children are placed in foster

care. She cites no authority, and we find none, to suggest that due process requires the State to keep children in foster care indefinitely while mother decides whether to engage in services to work toward reunification.

Michigan's requirement that the State prove a statutory ground for termination by clear and convincing evidence affords mother the fundamentally fair procedures to which she is entitled. *Santosky*, 455 US at 769-770. "Once the petitioner has presented clear and convincing evidence that persuades the court that at least one ground for termination is established under subsection 19b(3), the liberty interest of the parent no longer includes the right to custody and control of the children." *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000).

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). We review for clear error the trial court's ruling that a statutory ground for termination has been established. *In re Schadler*, 315 Mich App 406, 408; 890 NW2d 676 (2016). A finding is clearly erroneous when on review of all the evidence some of which might support the finding the appellate court is left with the definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

Although it only needed to find one, the trial court found three statutory bases proven by clear and convincing evidence. If we conclude that the trial court did not clearly err in finding one statutory ground for termination, we "need not consider the additional grounds upon which the trial court based its decision." *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).

Pursuant to MCL 712A.19b(3)(c)(i), the trial court found that the conditions that led to adjudication continued to exist more than 182 days after initial disposition with no reasonable likelihood that the conditions would be rectified within a reasonable time given the children's age. The trial court pointed out the undisputed evidence that at the termination hearing—more than a year after removal and 11 months after adjudication—mother still used methamphetamines (meth) regularly, lacked adequate housing, struggled with parenting her children appropriately, could not financially support her children, and continued her involvement with a man whom the Department of Health and Human Services (DHHS) deemed inappropriate to be around children because he had a lengthy criminal background and allegedly cooked meth in the house where the children were living at the time they were removed from mother's custody. Despite being offered several services and substantial support, she made no progress toward ameliorating the above conditions that led to adjudication. Thus, because mother had not taken any steps toward reducing her barriers to reunification in a year, the trial court concluded that there was no reasonable likelihood that she would rectify the conditions that led to adjudication within a reasonable time.

A statutory ground exists for termination under MCL 712A.19b(3)(c)(i) if clear and convincing evidence supports that the respondent had not accomplished any meaningful change in the conditions existing by the time of the adjudication. *In re Williams*, 286 Mich App at 271-272. "A lack of cooperation with reunification services, or other court-ordered conditions, can bear on a termination decision, if that lack of cooperation relates to issues of abuse or neglect." *In re LaFrance*, 306 Mich App 713, 729; 858 NW2d 143 (2014).

The caseworker who had been working with the family for the entirety of the case testified that mother had not made any progress toward addressing her barriers to reunification. The caseworker identified mother's initial barriers as being inappropriate housing, substance abuse, financial instability, and lack of parenting skills. Yet, mother continued to test positive for meth throughout the case. She had not found adequate employment or housing in the year since the children were removed from her care even though she had been offered resources and claimed that she was seeking employment and housing. She was inconsistent with attending parenting times and became easily frustrated at visits because she lacked the parenting skills to follow through with redirection. She was still involved with her boyfriend and wanted him to be able to attend her parenting times with the children even though DHHS had determined that he was unfit to be around the children. The caseworker referred mother to counseling to address her substance abuse and parenting skills a full year before the termination order, but mother only attended one counseling session and no parenting classes over the course of a year. The caseworker believed that lack of parenting skills and substance abuse, which could have been addressed through services, led to interactions that were harmful to the children. Apparently, at least one child cried during or immediately after visits with mother. Moreover, the older children had indicated they no longer wished to see mother. The caseworker also noted that even if mother began work on her case service plan immediately, because she had not engaged in services for more than a year, she would have to show progress for nine months to a year before DHHS would consider returning the children to her care. That would be an unreasonable amount of time.

Given the above testimony, the trial court did not clearly err in finding that clear and convincing evidence supported finding a statutory basis for termination of parental rights under MCL 712A.19b(3)(c)(i). See *In re Mason*, 486 Mich at 152; *In re LaFrance*, 306 Mich App at 729; *In re Williams*, 286 Mich App at 272. Because the trial court properly found a statutory basis for termination, mother's constitutional rights with regard to her children were not violated. See *Santosky*, 455 US at 769-770; *In re Trejo*, 462 Mich at 355.

We affirm.

/s/ Jane E. Markey  
/s/ Michael J. Kelly  
/s/ Thomas C. Cameron