

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* K. J. THOR-STEVENSON, Minor.

UNPUBLISHED  
October 17, 2019

No. 348265  
Montcalm Circuit Court  
Family Division  
LC No. 2015-000730-NA

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Before: MARKEY, P.J., and BORRELLO and BOONSTRA, JJ.

PER CURIAM.

Respondent-father appeals as of right the trial court's order terminating his parental rights to his minor child pursuant to 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 of harm if returned to parent). For the reasons set forth in this opinion, we affirm.

Father first argues that there were defects of service and notice with respect to the March 19, 2019 hearing at which father's parental rights were terminated. However, the record reflects that father and his attorney were present and participated at this hearing without making any objection related to service or notice. MCR 3.920(H) provides as follows:

*Notice Defects. The appearance and participation of a party at a hearing is a waiver by that party of defects in service with respect to that hearing unless objections regarding the specific defect are placed on the record. If a party appears or participates without an attorney, the court shall advise the party that the appearance and participation waives notice defects and of the party's right to seek an attorney. (emphasis added).*

Additionally, in the absence of any claim on appeal that that any alleged defect in service or notice actually had any effect on the outcome of this proceeding, father waived any challenge to such defects. *Id.*

Next, father argues that the trial court terminated his parental rights based on different circumstances than those that led to the court taking jurisdiction causing the court to consider legally inadmissible evidence in reaching its termination decision. Father argues that the trial

court relied on hearsay statements contained in reports that had been admitted at hearings during the course of the proceedings, although father does not specifically identify any of the statements to which he refers. Instead, he raises a general argument that the trial court erroneously ignored the application of the rules of evidence and did not confine itself to considering only legally admissible evidence.

As an initial matter, father's vague argument is completely devoid of any citation to any specific evidence that he believes was inadmissible and he therefore has not provided this Court with any basis on which to adjudicate his claim of error. "A party cannot simply assert an error or announce a position and then leave it to this Court to discover and rationalize the basis for [his] claims, or unravel and elaborate for [him his] argument, and then search for authority either to sustain or reject [his] position." *In re TK*, 306 Mich App 698, 712; 859 NW2d 208 (2014) (quotation marks and citation omitted). Consequently, father has abandoned this issue on appeal.

Moreover, father did not raise any objection on these grounds in the trial court. Thus, to the extent we could review father's argument, our review would be for plain error. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). "To avoid forfeiture under the plain error rule, three requirements must be met: 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

In this case, the trial court's decision to terminate father's parental rights was predicated on its conclusion that three statutory grounds had been established, one of which was MCL 712A.19b(3)(c)(i). This statutory ground provides:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

\* \* \*

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The 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.

The trial court's jurisdiction with respect to father was established pursuant to a jury trial. The conditions that led to the adjudication with respect to father, as stated in the petition allegations presented to the jury and established through testimony introduced at the trial, included father's substance abuse issues. In subsequently concluding that MCL 712A.19b(3)(c)(i) had been proven as a statutory ground for termination, the trial court found that father had not rectified the condition of his substance abuse. The trial court specifically

cited father's failure to consistently participate in services relevant to addressing this issue. Under these circumstances, father has not demonstrated that the trial court committed plain error. MCR 3.977(H)(2).<sup>1</sup>

Finally, father argues that the trial court erred by failing to apply the amended version of MCL 712A.19b(3)(g), which had taken effect before the trial court terminated father's parental rights. The amended version of MCL 712A.19b(3)(g) took effect on June 12, 2018, and states as follows:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

\* \* \*

(g) The parent, *although, in the court's discretion, financially able to do so*, 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. [2018 PA 58 (emphasis added to show new statutory language).]

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<sup>1</sup> MCR 3.977(H) provides in pertinent part as follows:

(H) Termination of Parental Rights; Other. If the parental rights of a respondent over the child were not terminated pursuant to subrule (E) at the initial dispositional hearing or pursuant to subrule (F) at a hearing on a supplemental petition on the basis of different circumstances, and the child is within the jurisdiction of the court, the court must, if the child is in foster care, or may, if the child is not in foster care, following a dispositional review hearing under MCR 3.975, a progress review under MCR 3.974, or a permanency planning hearing under MCR 3.976, take action on a supplemental petition that seeks to terminate the parental rights of a respondent over the child on the basis of one or more grounds listed in MCL 712A.19b(3).

\* \* \*

(2) Evidence. The Michigan Rules of Evidence do not apply, other than those with respect to privileges, except to the extent such privileges are abrogated by MCL 722.631. At the hearing all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value. The parties must be afforded an opportunity to examine and controvert written reports received by the court and shall be allowed to cross-examine individuals who made the reports when those individuals are reasonably available.

Nonetheless, father is still not entitled to any appellate relief. The trial court also relied on MCL 712A.19b(3)(c)(i) and (j) as statutory grounds supporting termination. Father has not raised any appellate claim of error directed at the court's reliance on (c)(i) and (j) and therefore has abandoned any such challenge. *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998), overruled in part on other grounds by *In re Trejo*, 462 Mich 341, 353 & n 10; 612 NW2d 407 (2000) ("The failure to brief the merits of an allegation of error is deemed an abandonment of an issue."). Only one statutory ground is necessary to support termination. *In re Powers Minors*, 244 Mich App 111, 119; 624 NW2d 472 (2000). Accordingly, father has failed to show that reversible error occurred with respect to there being a statutory ground for termination.

Affirmed.

/s/ Jane E. Markey  
/s/ Stephen L. Borrello  
/s/ Mark T. Boonstra