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STATE OF MICHIGAN

COURT OF APPEALS

In re ROSE, Minors.

UNPUBLISHED
November 21, 2019

No. 349217
Berrien Circuit Court
Family Division
LC No. 2018-000028-NA

Before: MURRAY, C.J., and MARKEY and BECKERING, JJ.

PER CURIAM.

Respondent mother appeals as of right the order terminating her parental rights to her two minor children under MCL 712A.19b(3)(c)(*i*) (conditions that led to adjudication continue to exist) and MCL 712A.19b(3)(j) (reasonable likelihood of harm if returned to parent). We affirm.

Respondent asserts that the trial court violated her constitutional rights to parent her children. Generally, to preserve an issue for appellate review, the respondent must have raised the issue before the trial court. See *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). Our review of the record indicates that respondent never objected on constitutional grounds to the termination proceedings. Therefore, respondent's claim is unpreserved, and our review is limited to "plain error affecting substantial rights." *Id*. Therefore, even if a constitutional error did occur in the trial court, our review requires that, in order to avoid forfeiture, respondent establish a plain error. "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). Plain error affects a defendant's substantial rights when the error "affected the outcome of the proceedings." *In re Utrera*, 281 Mich App at 9.

The Fourteenth Amendment of the United States Constitution states that "[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." US Const, Am XIV, § 1. "Among these fundamental rights is the right of parents to make decisions concerning the care, custody, and control of their children." *In re Sanders*, 495 Mich 394, 409; 852 NW2d 524 (2014). "Parents have a significant interest in the companionship, care, custody, and

management of their children, and the interest is an element of liberty protected by due process." *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003).

Respondent argues that the mere existence of this constitutional right acts as a reason for reversal of the trial court's termination. This is incorrect. "A parent's right to control the custody and care of her children is not absolute, as the state has a legitimate interest in protecting the moral, emotional, mental, and physical welfare of the minor and in some circumstances neglectful parents may be separated from their children." *In re Sanders*, 495 Mich at 409-410 (quotation marks and citation omitted).

Although respondent has not argued that any particular aspect of the proceeding was constitutionally deficient, our review of the record found no aspect that would violate the procedure established to protect respondent's due-process right to be heard. Respondent was allowed "meaningful opportunity to comply with a case service plan" before termination proceedings began. *In re Mason*, 486 Mich 142, 169; 782 NW2d 747 (2010). The trial court held nine separate hearings on the issue of respondent's parental rights. Notably, the trial court waited 11 months before terminating respondent's parental rights. This was done out of the trial court's caution after respondent showed some willingness to attend hearings after she failed to attend the previous four. It is also noteworthy that the trial court repeatedly requested that the Department of Health and Human Services (DHHS) confirm contact information, and "page" respondent.

It is clear from this record that the DHHS and the trial court complied with their duty to provide respondent notice of the proceedings or, at the very least, made reasonable attempts to contact respondent. See *In re Rood*, 483 Mich 73, 107-108; 763 NW2d 587 (2009). The trial court was careful to inform respondent about "the full nature and import of the proceedings with regard to [her] own rights." *Id*. at 113. Respondent simply refused to take advantage of these opportunities.[1]

Finally, although respondent has not challenged the statutory basis for the termination of her parental rights, or the trial court's best-interest analysis, we conclude that there was clear and convincing evidence supporting the trial court's finding of a statutory basis for termination, and that termination was in the child's best interests. *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011).

[1] Respondent makes no allegations that the services offered to her were lacking or insufficient. Again, it is unclear what aspect of the trial court's process respondent is challenging. However, it is clear that respondent was provided a "meaningful opportunity to comply with a case service plan" before losing her parental rights. *In re Mason*, 486 Mich at 169.

Affirmed.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ Jane M. Beckering