

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 23, 2011

In the Matter of BALDWIN, Minors.

No. 301507
Kalamazoo Circuit Court
Family Division
LC No. 2009-000155-NA

Before: TALBOT, P.J., and GLEICHER and M. J. KELLY, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to the two minor children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). Because we conclude that there were no errors warranting relief, we affirm.

Respondent argues that the trial court violated MCL 712A.13a(11) by suspending her parenting time on the basis of her noncompliance with the case treatment plan and without ordering a psychological evaluation or counseling for the children to determine the appropriateness of parenting time. Respondent contends that the court's failure to comply with MCL 712A.13a(11) violated her procedural due process rights. Because respondent failed to raise this issue before the trial court, we review the issue for plain error affecting substantial rights. *In re Williams*, 286 Mich App 253, 274; 779 NW2d 286 (2009).

Procedural due process limits actions by the government and requires it to institute safeguards in proceedings that affect those rights protected by due process, such as life, liberty, or property. *In re AMB*, 248 Mich App 144, 209; 640 NW2d 262 (2001). A procedural due process analysis requires a court to consider "(1) whether a liberty or property interest exists which the state has interfered with, and (2) whether the procedures attendant upon the deprivation were constitutionally sufficient." *Id.*

Here, respondent, who was represented by counsel throughout the proceedings, does not argue that she was denied notice or the opportunity to be heard on the parenting time issue, or that any other procedural irregularity occurred. Respondent has also not demonstrated any connection between the suspension of her parenting time in January 2010 and the ultimate termination of her parental rights in October 2010. The court terminated respondent's parental rights because of her continued drug use, inappropriate housing, unsuitable roommates, and poor choices. Accordingly, she has not shown plain error affecting her substantial rights. See *Williams*, 286 Mich App at 274.

The record supports the court's finding that the statutory factors set forth in MCL 712A.19b(3)(c)(i), (ii), (g), and (j) were proven by clear and convincing evidence. Specifically, the record contained evidence that respondent used illegal narcotics, including methamphetamine. Respondent returned ten positive drug screens since June 2009, including a drug screen that was positive for marijuana in October 2010, just weeks before the termination hearing. She was also living in a house that was "falling apart," with individuals who would not pass background checks because they either had Children's Protective Services involvement or criminal histories. Respondent failed to complete the case treatment plan, with the exception of individual counseling and the substance abuse assessment. The trial court did not clearly err in finding that these statutory grounds had been established. MCR 3.977(K).

This evidence also supports the circuit court's finding that termination was in the children's best interests. MCL 712A.19b(5). The children had lived with their great-grandmother since being removed from respondent's care and were doing well. The children needed permanency and stability and the evidence that respondent had not addressed her substance abuse problem or the other problems, clearly and convincingly showed that respondent was unable or unwilling to alter her behavior so that she might be able to provide proper care and a safe and appropriate environment for her children within a reasonable time.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Talbot
/s/ Elizabeth L. Gleicher
/s/ Michael J. Kelly