STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
July 16, 2013

In the Matter of S. M. JONES, Minor.

No. 314307
Washtenaw Circuit Court
Family Division
LC No. 2012-000064-NA

Before: SAWYER, P.J., and METER and DONOFRIO, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) (failure to provide proper care or custody), (i) (parental rights to one or more siblings of child have been terminated due to neglect or physical or sexual abuse), (j) (reasonable likelihood of harm if child is returned to parent), and (l) (parent's rights to another child were terminated). Because respondent's no-contest plea to the statutory grounds for termination was knowingly, understandingly, and voluntarily made, respondent abandoned appellate review of her ineffective assistance of counsel claim, and the trial court did not err by declining to adjourn the proceeding, appoint a guardian ad litem, or transfer the case to Wayne County, we affirm.

Respondent first argues that her no-contest plea with respect to the statutory grounds for termination was not knowingly, understandingly, and voluntarily made. Respondent cites MCR 3.971, which provides, in relevant part:

> (C) Voluntary, Accurate Plea.
>
> (1) Voluntary Plea. The court shall not accept a plea of admission or of no contest without satisfying itself that the plea is knowingly, understandingly, and voluntarily made.
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> (2) Accurate Plea. The court shall not accept a plea of admission or of no contest without establishing support for a finding that one or more of the statutory grounds alleged in the petition are true, preferably by questioning the respondent unless the offer is to plead no contest. If the plea is no contest, the court shall not question the respondent, but, by some other means, shall obtain support for a finding that one or more of the statutory grounds alleged in the petition are true. The court shall state why a plea of no contest is appropriate.

In this case, the trial court advised respondent of the allegations in the petition, reciting the allegations on the record. The court advised respondent that she was entitled to a trial by judge or jury, to have petitioner prove the allegations by a preponderance of the evidence, to have witnesses appear and testify under oath, to cross-examine witnesses, and to subpoena witnesses to testify in her favor. Respondent indicated that she understood those rights and understood that she was giving up those rights. The court also advised respondent that there could be a number of consequences of her plea, the most serious of which is termination of her parental rights. Respondent indicated that she understood. The court also asked respondent whether anyone promised her anything or threatened her in order to convince her to plead no contest. Respondent responded "no."

Further, the trial court established support for a finding that one or more of the statutory grounds alleged in the petition were true. The court took judicial notice regarding several of the allegations in the petition and relied on the testimony of Child Protective Services investigator Denise Burris to provide support for other allegations. The court determined that a factual basis had been established supporting the allegations in the petition. Respondent did not object to the court's determination in the trial court, and she does not challenge the factual basis for her plea in this Court. Accordingly, the trial court complied with the requirements of MCR 3.971(C)(2), and the record supports that respondent's no-contest plea was knowingly, understandingly, and voluntarily made.

Respondent next argues that she expressed concern regarding her plea to her trial counsel soon after she entered the plea, but that counsel did not inform the trial court of respondent's concerns or move to withdraw respondent's plea within the 21-day period set forth in MCR 3.992(A). To the extent that respondent is attempting to assert an ineffective assistance of counsel claim, she did not explicitly characterize her argument as such and does not provide any authority in support of that assertion of error. Thus, she has abandoned appellate review of an ineffective assistance of counsel claim. See *Houghton v Keller*, 256 Mich App 336, 339-340; 662 NW2d 854 (2003). Respondent also contends that the trial court erred when it failed to inform her at the time that she entered her plea that she had 21 days within which to seek to withdraw the plea. Respondent's argument lacks merit. Nothing in MCR 3.971(B) or MCR 3.992(A) required the trial court to advise respondent regarding the time period within which she could timely seek to withdraw her plea.

Respondent next argues that after the trial court refused to allow her to withdraw her plea, the court should have appointed a guardian ad litem to assist respondent or adjourned the proceeding to allow her time to understand the court's position. Because respondent failed to preserve this issue for our review by raising it in the trial court, our review is limited to plain error affecting her substantial rights. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008).

MCR 3.916(A) provides that "[t]he court may appoint a guardian ad litem for a party if the court finds that the welfare of the party requires it." Here, the record does not show that the appointment of a guardian ad litem was necessary. Rather, the record shows that respondent repeatedly attempted to convince the trial court to allow her to withdraw her plea and disagreed with the court's refusal to do so. MCR 3.923(G) provides that "[a]djournments of trials or hearings in child protective proceedings should be granted only (1) for good cause, (2) after taking into consideration the best interests of the child, and (3) for as short a period of time as

necessary." Respondent's mere disagreement with the trial court's ruling did not constitute "good cause" to adjourn the proceeding. Accordingly, respondent has failed to establish plain error that affected her substantial rights.

Respondent next argues that because she resides in Wayne County, the trial court should have transferred this case to Wayne County pursuant to MCR 3.926(B). Our review of this unpreserved issue is limited to plain error affecting respondent's substantial rights. *Utrera*, 281 Mich App at 8.

MCR 3.926(B) provides, "[w]hen a minor is brought before the family division of the circuit court in a county other than that in which the minor resides, the court may transfer the case to the court in the county of residence before trial." MCR 3.926(B) fails to support respondent's argument because that provision pertains to the county in which the minor child resides and not to the county in which the parent resides. Here, the child was born on May 29, 2012, at the University of Michigan Hospital in Washtenaw County and remained there for approximately six months until she began living with her foster family. Thus, at the time that petitioner filed the petition and at the time that respondent entered her no-contest plea on October 9, 2012, the child lived in Washtenaw County. Accordingly, respondent has failed to establish plain error affecting her substantial rights.

Finally, respondent argues that she was never provided the results of the child's meconium screen. Our review of this unpreserved issue is limited to plain error affecting respondent's substantial rights. *Utrera*, 281 Mich App at 8. There is no indication in the record that respondent requested the results of the child's meconium screen or that the results would have been favorable to respondent. Accordingly, respondent has failed to establish plain error that affected her substantial rights.

Affirmed.

/s/ David H. Sawyer
/s/ Patrick M. Meter
/s/ Pat M. Donofrio