

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
April 11, 2013

In the Matter of NIELSEN, Minors.

No. 312499
Saginaw Circuit Court
Family Division
LC No. 12-033394-NA

Before: M. J. KELLY, P.J., and CAVANAGH and MURRAY, JJ.

PER CURIAM.

Respondent-mother appeals by right the trial court's order terminating her parental rights to the minor children, JN and ZN. On appeal, respondent argues that the trial court erred in terminating her parental rights on the basis of an unrecorded forensic interview and erred when it found that termination was in the children's best interests. Because we conclude that there were no errors warranting relief, we affirm.

The Department of Human Services petitioned the trial court to take jurisdiction over the children and terminate respondent's rights in April 2012 after it was discovered that respondent failed to protect the children from physical and sexual abuse. Specifically, the Department alleged that respondent was present while her then boyfriend sexually abused JN. The Department also alleged that respondent told JN that if he talked about the incidents he "would not get any presents for Easter."

At trial, the Department sought the admission of hearsay statements made by JN during a forensic interview. See MCR 3.972(C)(2). A witness testified that JN disclosed that respondent's boyfriend forced him to perform oral sex on four occasions and that respondent told him that he would not get Easter presents if he talked about "wee-wee stuff." The investigating officer who interviewed JN testified that JN similarly stated that the boyfriend forced him to perform fellatio on four occasions and that respondent warned him not to talk about "wee-wee stuff" or else he wouldn't get any Easter presents. On cross-examination, the investigator stated that the forensic interview was not recorded. Respondent's lawyer did not object to the admission of this testimony.

At the conclusion of the termination hearing, the lower court found there was sufficient grounds for termination under MCL 712A.19b(3)(b)(i) and (3)(j), and that termination was in the best interests of the children.

Respondent first argues that the trial court violated her right to due process by terminating her parental rights on the basis of an unrecorded statement by her son. She implies that, because it was feasible to record the interview, the Department had a constitutionally imposed obligation to ensure that it was in fact recorded. Although respondent couches this claim of error in terms of her fundamental right to parent her children, she failed to meaningfully discuss that right and failed to state how that right obligated the Department to record her son's interview. She also failed to cite or discuss any authorities that might reasonably be construed to establish that a parent has a fundamental liberty interest in the recording of the children's interviews. For these reasons, we conclude that she has abandoned this claim of error on appeal. *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959) ("It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position."). In any event, even if we were to conclude that this unreserved claim of error had been properly presented on appeal, we would nevertheless conclude that it was not plain error warranting relief for the trial court to admit and rely on this testimony. *In re Utrera*, 281 Mich App 1, 8-9; 761 NW2d 253 (2008).

Respondent also argues that termination of her parental rights was not in the children's best interests. If the court finds that there is at least one statutory ground for terminating parental rights and that termination is in the child's best interest, the court must order termination of parental rights. MCL 712A.19b(5); *In re Beck*, 488 Mich 6, 11; 793 NW2d 562 (2010). This Court reviews a trial court's finding that termination was in the children's best interests for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

The trial court did not clearly err when it found that termination was in the children's best interests. Respondent not only allowed her boyfriend to physically and sexually abuse JN, she attempted to coerce JN into hiding this abuse by telling JN that he wouldn't receive Easter presents if he talked about "wee-wee stuff." This evidence established that respondent placed her own needs above those of children and would sacrifice their wellbeing in order to protect an abusive boyfriend. In addition, a witness testified that no level of child services could ensure that respondent would not place the children at harm in the future. The witness testified that respondent could harm the children psychologically if she were to have any contact with them. Given these facts, we cannot conclude that the trial court clearly erred when it found that it was in the children's best interests to terminate respondent's parental rights.

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Kelly
/s/ Mark J. Cavanagh
/s/ Christopher M. Murray