

STATE OF MICHIGAN
COURT OF APPEALS

In re HUNLEY, Minors.

UNPUBLISHED

July 19, 2016

No. 330897

Cass Circuit Court

Family Division

LC No. 13-000147-NA

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

PER CURIAM.

Respondent father appeals as of right the November 30, 2015 order terminating his parental rights to the minor children under MCL 712A.19b(3)(g), (j), and (k)(ii). We affirm.

Respondent argues that the agency failed to make reasonable efforts toward reunifying him with the minor children. Because this issue was not raised before the trial court, our review is limited to plain error affecting substantial rights. See *In re Frey*, 297 Mich App 242, 247; 824 NW2d 569 (2012); *In re VanDalen*, 293 Mich App 120, 135; 809 NW2d 412 (2011) (reviewing an unreserved claim for plain error affecting substantial rights).

The minor children were removed and placed in foster care after Child Protective Services received allegations that respondent had sexually abused an older sibling of the minor children. Respondent ultimately pleaded guilty to second-degree criminal sexual conduct and assault with intent to commit sexual penetration based on the conduct underlying the allegations. Respondent was incarcerated for the duration of these proceedings, thus limiting the agency in the services it could provide. However, respondent received a psychological evaluation, which noted his history of bipolar disorder and that he “appeared quite sexually preoccupied.” It was recommended that reunification strategies were “not advisable” because of respondent’s “long history of acting out, paraphilic interest, and mental difficulties.” Respondent now argues that he was entitled to services while incarcerated to address his paraphilia and bipolar disorder.

When a child is removed from his or her parent’s custody, the petitioner must “make reasonable efforts to rectify the conditions that caused the child’s removal by adopting a service plan.” *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009); MCL 712A.19a(2) (stating that the petitioner must make “[r]easonable efforts to reunify the child and family”). Under *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010), “[t]he state is not relieved of its duties to engage an absent parent merely because that parent is incarcerated.” However, there are certain “aggravated circumstances” set forth in MCL 712A.19a(2) under which reasonable efforts

toward reunification need not be made. One such circumstance is when “[t]he parent is required by court order to register under the sex offenders registration act.” MCL 712A.19a(2)(d).

In this case, after respondent pleaded guilty to the sexual offenses, he was required by the court in his judgment of sentence to register as a sex offender. Respondent also had a previous conviction in the state of Indiana for molesting a child, which required him to be on the sex offender registry. Accordingly, the agency was not required under MCL 712A.19a(2)(d) to provide reasonable reunification efforts to respondent, and we do not find plain error in this regard.

Affirmed.

/s/ Christopher M. Murray
/s/ David H. Sawyer
/s/ Patrick M. Meter