

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TAKHAI MARKEL MILLER,
TAKHAILA MARCAYLA MILLER, and
STEPHAUN PHADAREN SHAW, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TESHARRA SMITH,

Respondent-Appellant.

UNPUBLISHED
November 10, 2009

No. 292215
Ingham Circuit Court
Family Division
LC No. 07-001118-NA

Before: Stephens, P.J., and Cavanagh and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (g), (h), and (j).¹ We affirm.

Petitioner filed a petition for permanent custody of the children in July 2007, after one of the children was brought to the hospital with severe injuries that could not be sufficiently explained and further examination revealed several healed fractures. The trial was adjourned pending the conclusion of criminal proceedings against respondent. Once the criminal proceedings were resolved in March 2009, the case proceeded to trial and disposition and respondent's parental rights were terminated.

Respondent's sole argument on appeal is that the circuit court erred in adjourning the trial during the pendency of the criminal proceedings. Respondent did not specifically object to any of the adjournments on the record, so this issue is unpreserved. A court's decision to adjourn a matter is generally reviewed for an abuse of discretion, but because this issue is unpreserved, it is reviewed for plain error affecting substantial rights, i.e., a clear or obvious error that affected the

¹ It is unclear whether the circuit court also relied on § 19b(3)(k)(iii) as an additional statutory ground for termination. However, resolution of this question is not necessary for purposes of this appeal.

outcome of the proceedings or seriously affected the fairness, integrity, or public reputation of judicial proceedings. *In re Utrera*, 281 Mich App 1, 8-9; 761 NW2d 253 (2008).

When a child has been placed in foster care, “the trial must commence as soon as possible, but not later than 63 days after the child is removed from the home unless the trial is postponed: (1) on stipulation of the parties for good cause; (2) because process cannot be completed; or (3) because the court finds that the testimony of a presently unavailable witness is needed.” MCR 3.972(A). Good cause for an adjournment is a legally sufficient or substantial reason. *In re Utrera, supra* at 11. Adjournments should only be granted for as short a time as necessary. MCR 3.923(G)(3).

Assuming without deciding that awaiting the outcome of respondent’s criminal proceedings did not constitute good cause, we cannot find that the alleged error warrants any relief in this case. Because there is no dispute that the circuit court properly assumed jurisdiction and ordered termination at the initial dispositional hearing, we cannot find that the delay affected the outcome of the proceedings. Further, the delay did not deprive respondent of her protected liberty interest in the companionship, care, custody, and management of her children. See *In re Brock*, 442 Mich 101, 109; 499 NW2d 752 (1993). Because the circuit court found that it was contrary to the children’s welfare to remain in the home at the preliminary hearings, MCR 3.965(B)(12)(b) and (C)(1)-(3), and found at each of the review hearings that the children’s continued placement was necessary, MCR 3.972(A); MCL 712A.19(8), there is no basis for concluding that the court would have found otherwise had the trial not been adjourned.

Respondent also argues that she was prejudiced because she was denied supervised parenting time during most of the time the case was pending. We disagree. The record shows that respondent was initially allowed supervised parenting time, but the court suspended parenting time at the November 13, 2007, review hearing. Clearly, had the adjudication been completed before November 13, parenting time would not have been suspended before trial, but respondent was permitted to exercise parenting time until November 13, so she was not prejudiced. After November 13, other factors apart from the pendency of the criminal case, including a no-contact order entered by the criminal court, resulted in the loss of parenting time privileges. Thus, respondent cannot show that the circuit court was likely to have permitted parenting time after November 13, 2007, regardless of when the trial was actually held. Accordingly, we cannot find that the delay seriously affected the fairness, integrity, or public reputation of judicial proceedings.

Affirmed.

/s/ Cynthia Diane Stephens
/s/ Mark J. Cavanagh
/s/ Donald S. Owens