

STATE OF MICHIGAN
COURT OF APPEALS

In re N. L. ROBAR, Minor.

UNPUBLISHED

June 18, 2020

No. 351816

Muskegon Circuit Court

Family Division

LC No. 19-000881-NA

Before: TUKEL, P.J., and MARKEY and GADOLA, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to her minor child NLR under MCL 712A.19b(3)(h) (incarceration for more than two years). Respondent challenges only the best-interest determination. We affirm.

Respondent was convicted of inducing child sexually abusive activity for the purpose of producing child sexually abusive material, MCL 750.145c(2), for taking a video of NLR in a sexually compromising position. Respondent was sentenced to 8 to 25 years' imprisonment. A petition for permanent custody was filed on these grounds and, during the proceedings, respondent conceded that termination of her parental rights was appropriate.

“A waiver is a voluntary and intentional abandonment of a known right.” *Braverman v Granger*, 303 Mich App 587, 608; 844 NW2d 485 (2014) (citation and quotation marks omitted). “A party cannot stipulate [to] a matter and then argue on appeal that the resultant action was error.” *Holmes v Holmes*, 281 Mich App 575, 588; 760 NW2d 300 (2008) (quotation marks and citation omitted). To allow a respondent to assign “error on appeal [to] something that [he or] she deemed proper in the lower court” would be to “permit [a] respondent to harbor error as an appellate parachute.” *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). “A party who waives a right is precluded from seeking appellate review based on a denial of that right because waiver eliminates any error.” *The Cadle Co v City of Kentwood*, 285 Mich App 240, 255; 776 NW2d 145 (2009). “The usual manner of waiving a right is by acts which indicate an intention to relinquish it[.]” *Id.* at 254.

At the termination hearing, respondent's attorney stated: “My client understands that [termination of respondent's parental rights] is in the best interest of her child.” Furthermore, respondent admitted at the termination hearing that the allegations in the petition were true and

affirmatively stated that she was allowing her parental rights to be terminated. Thus, because respondent agreed with the determination below, she has waived this issue.

Affirmed.

/s/ Jonathan Tukel
/s/ Jane E. Markey
/s/ Michael F. Gadola