

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TYLER HATTON, Minor.

FAMILY INDEPENDENCE AGENCY,
Petitioner-Appellee,

UNPUBLISHED
February 24, 2005

v

No. 257533
Genesee Circuit Court
Family Division
LC No. 02-115930-NA

RAMON HATTON,
Respondent-Appellant,
and

RHONDA FISHER,
Respondent.

Before: Fort Hood, P.J., and Griffin and Donofrio, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (j), and (k)(i). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant argues on appeal that reversal is warranted because he was not properly served with notice of the termination hearing. Because respondent-appellant failed to preserve this issue by raising it below, our review is limited to plain error affecting his substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000).

Error did occur because respondent-appellant was not personally served with notice of the termination hearing as required by MCL 712A.12 and was not served by one of the permissible alternative methods outlined in MCL 712A.13. Instead, a copy of an order providing

notice of the termination hearing was sent to respondent-appellant by first-class mail.¹ *Carines, supra* at 763-764, 770.

However, respondent-appellant failed to demonstrate that the plain error affected his substantial rights. *Carines, supra* at 763-764, 770, 774; *Kern, supra* at 336. Respondent-appellant does not argue on appeal that he never received actual notice of the termination hearing nor did he ever argue such in the lower court proceedings. Instead, he argues that he was not properly served with notice. Under these facts, respondent-appellant failed to demonstrate that any prejudice arose from the improper service.² Accordingly, we conclude that error requiring reversal did not occur because respondent-appellant failed to establish a plain error that affected his substantial rights. *Carines, supra* at 763-764.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Richard Allen Griffin
/s/ Pat M. Donofrio

¹ We note that respondent-appellant was previously served with, and received, a summons to appear for a pretrial hearing and a copy of the termination petition by certified mail. The summons, however, did not provide notice of the upcoming termination hearing.

² The lower court record also indicates that respondent-appellant had actual notice of the hearing. A copy of the order containing notice of the termination hearing was sent to respondent-appellant by first-class mail. Although the record does not indicate whether respondent-appellant actually received the notice, there is no indication in the record that it was returned to the court, and, thus, it can be presumed that he received it. *Crawford v State of Michigan*, 208 Mich App 117, 121; 527 NW2d 30 (1994).