STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
January 12, 2026
8:35 AM

In re Z. R. WEST, Minor.

No. 376415
St. Joseph Circuit Court
Family Division
LC No. 2025-000260-NA

Before: CAMERON, P.J., and KOROBKIN and BAZZI, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor child, ZW, under MCL 712A.19b(3)(c)(*i*) (failure to rectify conditions that led to the adjudication), (3)(c)(*ii*) (failure to rectify other conditions), and (3)(g) (failure to provide proper care and custody).[1] Because respondent was not served in accordance with the requirements of MCL 712A.13 and the court rules, we vacate the trial court's order terminating respondent's parental rights and remand for further proceedings.

I. BASIC FACTS AND PROCEDURAL HISTORY

This case arises from respondent's failure to comply with her guardianship plan or stay in contact with her child, ZW. When ZW was just four months old, she was placed under the guardianship of a relative. Because ZW had extensive mental-health needs and required an inordinate amount of support, the relative transferred ZW's guardianship to a second pair of guardians. Two years after the transfer, these guardians shifted ZW's care to a third pair of guardians, who are the petitioners in this case. Respondent had no contact with ZW throughout the second and third guardianships. Respondent was subject to a support order payable to the second guardians, but she did not make any payments unless she was arrested and ordered to make a payment. In 2024, respondent petitioned to terminate the guardianship, but witnesses testified

[1] The father of ZW was designated a respondent in the child protective proceedings, and his parental rights were terminated. However, ZW's father is not a party to this appeal, or any other appeal, despite the termination of his parental rights.

that she did not present any evidence that she had complied with her guardianship plan, and the court denied her petition on the merits. Intending to adopt ZW, petitioners sought the termination of respondent's parental rights.

Respondent and ZW's father were absent and could not be located throughout the lower court proceedings. At the pretrial conference, the parties' respective trial counsel were concerned that they would not be able to personally serve and provide notice of the upcoming adjudication and termination hearing to respondent and ZW's father. Counsel for ZW's father suggested that the trial court order alternate service by publication while counsel for petitioners continued their efforts to locate respondent and ZW's father. The trial court accepted that plan. A week later, counsel for petitioners submitted a motion for alternate service explaining, "We have contacted a process server to attempt to locate [respondent] and personally serve her the petition and the Notice of Hearing for the Adjudicatory/Termination Trial, but want to ensure that service is perfected by filing this Motion contemporaneously with those efforts." The motion requested to publish the Notice of Hearing in a newspaper that was local to respondent's last known address.

The next day, the trial court granted the motion and ordered alternate service by publication. The newspaper published the notice in compliance with the court order on May 15, 2025. On June 11, 2025, the trial court held a combined adjudication trial and termination hearing. Respondent was not present, but the trial court determined that the notice by publication was adequate and proceeded with the hearing. The trial court exercised jurisdiction and terminated respondent's parental rights on the same day. This appeal followed.

II. STANDARD OF REVIEW

"Generally, whether child protective proceedings complied with a respondent's substantive and procedural due process rights is a question of law that this Court reviews de novo. However, an unpreserved claim of constitutional error is reviewed for plain error affecting substantial rights." *In re Sanborn*, 337 Mich App 252, 268; 976 NW2d 44 (2021) (quotation marks and citations omitted). Respondent did not raise the issue of whether service of process was proper in the trial court, thus, the issue is not preserved and is reviewed for plain error on appeal. See *In re TK*, 306 Mich App 698, 703; 859 NW2d 208 (2014). Accordingly, respondent "must establish that (1) error occurred; (2) the error was 'plain,' i.e., clear or obvious; and (3) the plain error affected [her] substantial rights. And the error must have seriously affected the fairness, integrity or public reputation of judicial proceedings[] . . . ." *In re Ferranti*, 504 Mich 1, 29; 934 NW2d 610 (2019) (quotation marks and citations omitted; second alteration in original).

III. SERVICE OF PROCESS

Respondent argues that reversal is required because she was not properly served with the summons and notice of the combined adjudicatory and termination hearing, at which she was not present. We agree.

A. LEGAL PRINCIPLES

"The fundamental requisite of due process of law is the opportunity to be heard." *Sanborn*, 337 Mich App at 268 (quotation marks and citation omitted). This requires notice of court hearings:

> The "opportunity to be heard" includes the right to notice of that opportunity. An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. [*In re Rood*, 483 Mich 73, 92; 763 NW2d 587 (2009) (quotation marks and citations omitted).]

The notice requirements for child protective proceedings are established in court rules, statutes, and caselaw. For example, MCR 3.920(B)(2)(b) requires that a summons be served on any respondent in a child protective proceeding. Personal service is required unless the court finds that it is impracticable or impossible. MCR 3.920(B)(4). For a hearing to terminate parental rights, personal service must occur at least 14 days in advance, but service by publication must occur at least 21 days in advance. MCR 3.920(B)(5)(a)(*i*) and (c).

MCL 712A.12 also provides a statutory requirement for service of process on a noncustodial parent:

> After a petition shall have been filed and after such further investigation as the court may direct, . . . the court may dismiss said petition or may issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child, or with whom the child may be, to appear personally and bring the child before the court at a time and place stated . . . . If the person so summoned shall be other than the parent or guardian of the child, then the parents or guardian, or both, shall also be notified of the petition and of the time and place appointed for the hearing thereon, by personal service before the hearing, except as hereinafter provided.

Similar to the court rule, the statute provides for alternate service by publication if personal service is impracticable, but it has a different timing requirement than the court rule:

> Service of summons may be made anywhere in the state personally by the delivery of true copies thereof to the persons summoned: Provided, That if the judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to their last known addresses, or by publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if (1) personal service is effected at least 72 hours before the date of hearing; (2) registered mail is mailed at least 5 days before the date of hearing if within the state or 14 days if outside of the state; (3) publication is made once in some newspaper printed and circulated in the county in which said court is located at least 1 week before the time fixed in the summons or notice for the hearing. [MCL 712A.13.]

"When determining whether personal service would be impractical, the trial court must determine if reasonable efforts were made to locate the party." *In re Lovitt*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367124); slip op at 3. For example, counsel may attempt to locate the respondent by contacting family members or making an inquiry with nearby correctional systems. See *In re Adair*, 191 Mich App 710, 714; 478 NW2d 667 (1991). Counsel could also attempt to contact the relevant Friend of the Court (FOC) and the respondent's last known address or telephone number. See *Lovitt*, ___ Mich App at ___; slip op at 4. Failure to comply with these statutory requirements "is a jurisdictional defect that renders all proceedings in the trial court void." *Id*. at ___; slip op at 3 (quotation marks and citation omitted). See also *Ferranti*, 504 Mich at 22.

B. DISCUSSION

The trial court did not comply with the statutory requirements for service of process because it did not sufficiently determine whether reasonable efforts were made to locate respondent. At the pretrial conference, petitioners' counsel informed the trial court that he planned to reach out to a process server to try to locate respondent. He promised the court that himself and petitioners would do "whatever we need to do" to ensure that notice was given before the statutory deadline. Counsel for ZW's father suggested that the trial court allow service by publication while the parties attempted to locate respondents. The trial court accepted that strategy.

In petitioners' motion for alternate service, they explained that they had contacted a process server to locate respondent, but they intended the order for service by publication to run "*contemporaneously* with those efforts." (Emphasis added.) Stated alternatively, the only attempt by petitioners to properly serve respondent between the pretrial conference and the filing of their motion was petitioners' counsel contact of a process server. However, the trial court's order checked a box stating that service was "impracticable or cannot be achieved," despite failing to provide the basis for that finding.

In short, the trial court put the cart before the horse. A trial court must determine if reasonable efforts were made to locate the respondent *before* it orders alternate service. See *Lovitt*, ___ Mich App at ___; slip op at 3. Instead, the trial court ordered service by publication while knowing that counsel had not completed attempts to locate respondent. Despite these obvious failings to properly serve respondent, the trial court nevertheless went forward with the adjudicatory and termination hearing in respondent's absence, without verifying whether any other efforts were made to contact her.[2] At the time when the trial court ordered alternate service, the only record of any attempt to locate respondent was that counsel had contacted a process server. Contacting a process server, without more, is not a reasonable effort, particularly given the significant interest parents have in the companionship, care, custody, and management of their children. *In re Brock*, 442 Mich 101, 108; 499 NW2d 752 (1993). The record is absent of any indication of the process server's efforts or results in reaching respondent, including contacting

[2] A more appropriate response to respondent's absence would be to adjourn the subject hearing to allow sufficient time for counsel to make reasonable efforts to locate respondent, *then* order alternate service.

respondent's sister who possessed respondent's contact information, or communicating with the FOC or any local incarceration facilities, shelters, or rehabilitation centers.

The trial court essentially cut corners with respondent's due-process rights in the interest of judicial efficiency. In doing so, it failed to establish personal jurisdiction over respondent and plainly erred by proceeding with the combined adjudicatory and termination hearing despite this defect. See *Lovitt*, ___ Mich App at ___; slip op at 4. See also MCR 3.972(B)(1). The lack of personal jurisdiction renders all proceedings in the trial court void.[3] See *Lovitt*, ___ Mich App at ___; slip op at 3.

Vacated and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Thomas C. Cameron
/s/ Daniel S. Korobkin
/s/ Mariam S. Bazzi

[3] Because all proceedings in the trial court are void for lack of personal jurisdiction, we need not address respondent's other arguments regarding the trial court's findings as to the statutory grounds for jurisdiction or termination.