

inquired of counsel whether she was keeping mother apprised of events. Counsel confirmed that she was. The court thereupon found insufficient evidence to demonstrate a disruption of the attorney-client relationship, and denied the motion.

Counsel continued to represent mother through the remainder of the proceeding. She filed several pre-trial motions, actively cross-examined the State's witnesses at the TPR hearing, and called four witnesses on mother's behalf, including three of her service providers at the Lund Home and mother herself. The trial court issued a written decision in February 2010. The court found that, during her six months at Lund, mother had made minimal progress in achieving any of her case plan goals. She had not learned to control her explosive outbursts and impulsive behaviors that had placed the child at risk, or demonstrated the necessary judgment when released in the community to ensure the child's safety. The court found that mother's earliest release date was the summer of 2011, and concluded that, when ultimately released, she would not be in a position to resume parental responsibilities within a reasonable time. The court also noted that the child had been placed in the foster care of her maternal grandparents and had adjusted well to their home. The court thus determined that termination was in the minor's best interest, and granted the State's petition. This appeal followed.*

Mother challenges none of the findings and conclusions underlying the court's decision to grant the TPR petition. Rather she focuses solely on the denial of the motion to withdraw, claiming in summary fashion that she was denied a fair hearing, due process, and effective assistance of counsel by the court's decision to proceed in her absence. Notably, however, mother does not claim or make any showing that she was prejudiced by the procedure or by counsel's representation throughout the remainder of the proceeding. See In re S.W., 2008 VT 38, ¶ 9, 183 Vt. 610 (rejecting a parent's claim that the trial court erred in denying counsel's motion to withdraw where she failed to show either that her counsel was ineffective or that any ineffectiveness on his part was prejudicial to her case). Even assuming, without deciding, that a party may claim ineffective assistance of counsel in a termination proceeding, mother here does not even argue that her attorney, who vigorously contested the State's case at the evidentiary hearing, was ineffective or that it affected the outcome. Cf. In re A.D.T., 174 Vt. 369, 374-75 (2002) (declining to decide whether a parent may raise ineffective assistance in a termination proceeding); In re M.B., 162 Vt. 229, 236 (1994) (rejecting a claim of ineffective assistance of counsel at a termination hearing based on counsel's unsuccessful motion to withdraw where father "fail[ed] to specify how trial counsel's presumed incompetence prejudiced his case sufficiently to create the reasonable probability of a different outcome"). Accordingly, we find no basis to disturb the judgment.

Affirmed.

BY THE COURT:

John A. Dooley, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice

* The court also terminated father's parental rights, but he has not appealed.

