

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SAGE NICKERSON and
SAPPHIRE NICKERSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JEFF BARRETT,

Respondent-Appellant,

and

SUNSHINE NICKERSON,

Respondent.

UNPUBLISHED

July 15, 2008

No. 282590

Jackson Circuit Court

Family Division

LC No. 06-005133-NA

Before: Sawyer, P.J., and Jansen and Hoekstra, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right the order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), and (g). We affirm.

Respondent-appellant argues that the trial court did not have personal jurisdiction over him where no attempts were made to personally serve him with notice of the initial pleadings or proceedings. Whether a trial court has personal jurisdiction over a party is a question of law that we review de novo on appeal. *In re Terry*, 240 Mich App 14, 20; 610 NW2d 563 (2000). A failure to provide proper notice of termination proceedings by personal service as required by MCL 712A.12 is a jurisdictional defect that renders all proceedings in the family court void with respect to the individual who was deprived of notice. *Id.*

We find that, as the putative father, respondent-appellant was not entitled to personal service regarding the proceedings. Where a respondent fails to establish himself as a “father” for purposes of MCR 3.903(A)(7), he is not entitled to the same service and notice as afforded a non-custodial natural parent. *In re Gillespie*, 197 Mich App 440, 445-446; 496 NW2d 309 (1992). Although there was discussion in the trial court regarding respondent-appellant’s status, there is nothing in the record to conclusively prove that respondent-appellant was the legal

father. Respondent-appellant and the children's mother were not married when the children were born. There are no copies of affidavits of parentage in the lower court record. There was no testimony that respondent-appellant had been adjudged the children's father in a support proceeding. Instead, the only evidence that respondent-appellant was the legal father was the Department of Human Services worker's testimony at the termination hearing that "I'm going to assume he's on the birth certificates." Respondent-appellant was, therefore, merely a "putative father" as discussed in MCR 3.903(A)(23) and MCR 3.921(C). He was not a "father" under MCR 3.903(A)(7). He also was not a "party," "parent," or "respondent," as those terms are defined in MCR 3.903(A)(18)(b), MCR 3.903(A)(17), and MCR 3.977(B). As such, respondent-appellant was not entitled to personal service regarding the proceedings.

Affirmed.

/s/ David H. Sawyer
/s/ Kathleen Jansen
/s/ Joel P. Hoekstra