

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
December 27, 2012

In the Matter of J. R. GATLIN-JOHNSON, Minor.

No. 310857  
Wayne Circuit Court  
Family Division  
LC No. 10-496636-NA

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Before: RONAYNE KRAUSE, P.J., and SERVITTO and SHAPIRO, JJ.

PER CURIAM.

Respondent, H. Johnson, appeals as of right from a trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Initially, we reject respondent's challenge to the trial court's exercise of jurisdiction over the child. The trial court acquired jurisdiction in February 2011, based on respondent's plea of admission. Respondent does not contend that her admissions failed to establish a statutory basis for jurisdiction under MCR 712A.2(b), or otherwise explain her claim of lack of jurisdiction. Regardless, respondent cannot collaterally attack the trial court's exercise of jurisdiction in this appeal from the termination decision. *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993). Where, as here, termination was not ordered at the initial dispositional hearing, the trial court's exercise of jurisdiction can only be challenged by direct appeal of the initial order of disposition. *In re SLH, AJH, & VAH*, 277 Mich App 662, 668-669; 747 NW2d 547 (2008); *In re Bechard*, 211 Mich App 155, 159; 535 NW2d 220 (1995). Accordingly, respondent is precluded from challenging the trial court's exercise of jurisdiction.

We also reject respondent's argument that a statutory ground for termination was not established by clear and convincing evidence. Only one statutory ground for termination need be established. *In re CR*, 250 Mich App 185, 207; 646 NW2d 506 (2002). Here, the trial court did not clearly err in finding that § 19b(3)(j) was established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); MCR 3.977(H)(3)(a) and (K).

Respondent was unable to meet the child's basic material needs because she did not have a home for him to live in or a source of income with which to support him. In addition, it was discovered that respondent had a substance abuse problem and she made little effort to overcome it as demonstrated by the fact that she consistently tested positive for drugs or alcohol, including four positive tests after the supplemental petition for termination was filed. Considering respondent's continued drug abuse, the fact that she did not demonstrate appropriate parenting skills during visits, and that she and the child did not have any appreciable bond, the trial court

did not clearly err in finding that the child was reasonably likely to be harmed if placed with respondent.

Respondent also argues that termination of her parental rights was not in the child's best interests. We disagree.

The evidence showed that respondent failed to benefit from parenting classes, that she made little effort to overcome her substance abuse problem and was still using drugs and alcohol, that she was unable to meet the child's basic material needs, and that she and the child did not have a significant bond. Considering the child's need for permanency and stability and respondent's failure to make any significant progress toward reunification during the year and a half the child was in foster care, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-357.

In addition to challenging the trial court's termination decision, respondent contends that her procedural due process rights were violated because she *may not* have received notice of the adjourned termination hearing date. This issue has not been preserved because it was not raised, addressed, and decided in the trial court. *People v Metamora Water Serv, Inc*, 276 Mich App 376, 382; 741 NW2d 61 (2007). Although respondent's counsel noted respondent's absence at the adjourned hearing, he did so in the context of seeking an adjournment. There was no claim that respondent *did not* receive proper notice of the hearing. "An appeal based on one ground is not preserved where the objection at trial was on a different ground." *City of Westland v Okopski*, 208 Mich App 66, 72; 527 NW2d 780 (1994). Unpreserved constitutional issues are reviewed for plain error affecting substantial rights. *Bay Co Prosecutor v Nugent*, 276 Mich App 183, 193; 740 NW2d 678 (2007).

Failure to serve a parent with a summons and petition for permanent custody "is a jurisdictional defect that renders all proceedings in the trial court void." *In re Atkins*, 237 Mich App 249, 250-251; 602 NW2d 594 (1999). The failure to make service of process on the parent is not excused even though the parent receives actual notice of the proceedings through other means. *In re Brown*, 149 Mich App 529, 541-542; 386 NW2d 577 (1986). Respondent does not claim a failure of service of process. The record shows that the supplemental petition was filed on January 9, 2012. Respondent was served with a summons directing her to appear in court on January 30. Respondent appeared for the hearing and acknowledged service of the petition. Although the hearing on the petition was adjourned several times, "the extensive statutory provisions requiring service of notice or service of summons" in cases involving termination of parental rights do not "require personal service of a summons or notice" when "the hearing [i]s simply adjourned to a later date." *In re Andeson*, 155 Mich App 615, 618-619; 400 NW2d 330 (1986). Personal service of notice of an adjourned termination hearing on a respondent is not required and service on the respondent's attorney is sufficient. *In re BAD*, 264 Mich App 66, 70 n 2; 690 NW2d 287 (2004). The record shows that respondent's attorney received notice of the adjourned hearing date and the foster-care worker testified at the hearing that respondent received actual notice of the adjourned hearing date. Therefore, this case does not involve a jurisdictional defect affecting the validity of the proceedings, and respondent has not shown a plain error.

Affirmed.

/s/ Amy Ronayne Krause

/s/ Deborah A. Servitto

/s/ Douglas B. Shapiro