

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KRYSTAL MARIE DAVIS
and DANIELLE BROYLES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

WILLIAM DANIEL BROYLES,

Respondent-Appellant,

and

MICHELLE BROYLES
and LARRY RAY DAVIS,

Respondents.

UNPUBLISHED

February 12, 1999

No. 209095

Oakland Juvenile Court

LC No. 043190

Before: Murphy, P.J., and MacKenzie and Talbot, JJ.

PER CURIAM.

Respondent-appellant (hereafter “respondent”) appeals as of right from the juvenile court order terminating his parental rights to his daughter, Danielle Broyles, under MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g). We affirm.

The juvenile court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, respondent failed to show that termination of his parental rights was clearly not in the child’s best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Contrary to what respondent-appellant argues, the record does not indicate that the Family Independence Agency failed to make reasonable efforts to reunite respondent with his child.

Respondent also argues that his plea of admission to the allegations in the petition was not knowingly, understandingly, and voluntarily made. A party may not challenge the court's exercise of jurisdiction by collateral attack where a direct appeal was available. *In re Hatcher*, 443 Mich 426, 439; 505 NW2d 834 (1993); *In re Powers*, 208 Mich App 582, 587; 528 NW2d 799 (1995). Here, a direct appeal was available from the order assuming jurisdiction, and respondent did not appeal that order or request a rehearing of the issue during the time the court had jurisdiction over the child or within twenty days after the order terminating his parental rights was entered. MCL 712A.21; MSA 27.3178(598.21); *In re Powers*, *supra* at 587-588. Accordingly, respondent may not now challenge the juvenile court's exercise of jurisdiction.

For the same reason, respondent has also waived review of his claim that insufficient evidence was presented at the adjudicatory stage to enable the court to exercise jurisdiction over the minor child. *In re Hatcher*, *supra*; *In re Powers*, *supra*.

Respondent also asserts that his due process rights were violated because the court failed to properly advise him regarding his right to counsel in accordance with MCR 5.915(B)(1), and because he did not knowingly waive his right to counsel at a pretrial hearing. However, because respondent has been represented by counsel since the time of adjudication and never objected to the procedures used at the earlier hearings, we find that any claim of error regarding the alleged deficiencies at the earlier hearings has been waived. *In re Jones*, 137 Mich App 152, 155; 357 NW2d 840 (1984). See also *People v Geoghegan*, 456 Mich 945; 576 NW2d 168 (1998). Moreover, contrary to respondent's claim, the court was not required to sua sponte appoint counsel for him. *In re Hall*, 188 Mich App 217, 222; 469 NW2d 56 (1991).

Respondent also challenges several of the dispositional hearing procedures set forth in the court rules, namely those that allow for termination of parental rights without a jury trial and without some of the procedural safeguards that accompany a jury trial, claiming that they are inconsistent with due process and, therefore, unconstitutional. However, respondent has waived these issues by failing to raise them below. *Booth v University of Michigan Bd of Regents*, 444 Mich 211, 234; 507 NW2d 422 (1993). See also *Lewis v Krogol*, 229 Mich App 483, 490; 582 NW2d 524 (1998).

Affirmed.

/s/ William B. Murphy
/s/ Barbara B. MacKenzie
/s/ Michael J. Talbot