

? STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of M.M., J.G.M., and K.B.M., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KEN MICK,

Respondent-Appellant,

and

SALLY MICK,

Respondent.

UNPUBLISHED

October 15, 2002

No. 238039

Shiawassee Circuit Court

Family Division

LC No. 00-009689-NA

Before: Kelly, P.J., and Saad and Smolenski, JJ.

MEMORANDUM.

In this child protection proceeding, petitioner filed a petition requesting the court to exercise jurisdiction over the minor children. At the initial dispositional hearing, the trial court entered an order granting petitioner's motion to dismiss the petition. Respondent-appellant seeks to appeal by right. We dismiss the appeal for lack of jurisdiction.

MCR 7.203(A)(1) provides that this Court has jurisdiction of an appeal of right filed by an aggrieved party from a final judgment or final order. This court rule requires both an aggrieved party *and* a final order.

An aggrieved party is one whose legal right is invaded by an action, or whose pecuniary interest is directly or adversely affected by a judgment or order. An aggrieved party has an interest in the subject matter of the litigation. *In Re Estate of Critchell*, 361 Mich 432, 105 NW2d 417 (1960); *Irish v State Treasurer*, 158 Mich App 337, 404 NW2d 733 (1987). The definition of "aggrieved party" varies according to the type of case at issue, and, consequently, the court must in each case examine the subject matter of the litigation. *Security Ins Co v Daniels*, 70 Mich App 100, 245 NW2d 418 (1976).

The subject matter of this appeal involves the dismissal of the petition to terminate respondent-appellant's parental rights. As the legal father of the three minors, he clearly has an interest in resolution of the issue regarding the termination of his parental rights. However, his parental rights were not terminated or otherwise invaded because the matter was decided in his favor due to the dismissal. As his rights were not adversely affected and because he stands in the identical position as he did prior to the petition being filed, he is not an "aggrieved party" pursuant to MCR 7.203(A)(1).

Appeal dismissed.

/s/ Kirsten Frank Kelly

/s/ Henry W. Saad

/s/ Michael R. Smolenski