

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ZAVION JEREMIAH THOMAS,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHANIQUE SIMONE ROCHEL THOMAS,

Respondent-Appellant.

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UNPUBLISHED

November 20, 2008

No. 284754

Oakland Circuit Court

Family Division

LC No. 07-737608-NA

Before: Murphy, P.J., and Sawyer and Smolenski, JJ.

PER CURIAM.

Respondent appeals as of right from a circuit court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(ii), (g), (g), and (l). We affirm.

Respondent first argues that the trial court violated her due process rights when it entered an order to take the child into custody pursuant to MCL 3.963(B). This issue has not been preserved for appeal because respondent did not raise it below. *Rooyakker & Sitz, PLLC v Plante & Moran, PLLC*, 276 Mich App 146, 162; 742 NW2d 409 (2007). Therefore, the issue is reviewed for plain error. *Kloian v Schwartz*, 272 Mich App 232, 242; 725 NW2d 671 (2006). The application for and issuance of an order taking the child into custody is not the equivalent of the preliminary hearing. It precedes the preliminary hearing and may even precede the filing of a petition. See MCR 3.963(C) and the staff comments. The trial court began the preliminary hearing within 24 hours after issuance of the order as required by MCR 3.965(A)(1), and respondent appeared at the hearing and requested counsel. The hearing was adjourned to secure counsel and, when it resumed, respondent appeared with counsel and was served with a copy of the petition. Thus, there was no error.

We also find no error in the manner in which the court conducted the proceedings leading to termination. It held a bifurcated adjudicatory and dispositional hearing as required by *In re AMAC*, 269 Mich App 533, 539-540; 711 NW2d 426 (2006). To the extent respondent argues that the court erred in taking jurisdiction because its findings at the adjudicatory hearing “were not based on clear and convincing evidence,” her argument must be rejected. The clear and convincing evidence standard is not applicable to the adjudication; rather, jurisdiction is to be determined by a preponderance of the evidence. MCR 3.972(C)(1); MCR 3.977(E)(2). To the

extent respondent contends that the court should have held a bifurcated dispositional hearing, whereby only legally admissible evidence regarding the statutory grounds for termination was received at the first part, she has abandoned that argument by failing to cite any applicable authority in support of it. *Coble v Green*, 271 Mich App 382, 391; 722 NW2d 898 (2006). Further, in absence of evidence to the contrary, the judge is presumed to have followed the law and to have ignored errors and decided the case on properly admitted evidence. *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988). The trial court received a certified copy of the termination order regarding respondent's first child, which was legally admissible under MRE 803(8) and MRE 902(4). This alone established a statutory basis for termination under § 19b(3)(l) and, therefore, any error in relying on the additional grounds for termination would have been harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Finally, the evidence did not clearly show that termination of respondent's parental rights was not in the child's best interests. *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). Therefore, the court did not clearly err in terminating respondent's parental rights to the child. *In re Trejo, supra* at 356-357.

Affirmed.

/s/ William B. Murphy  
/s/ David H. Sawyer  
/s/ Michael R. Smolenski