STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of MONAE NICOLE WHITE-TRAYLOR, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TONIKO LEONDRAE TRAYLOR,

Respondent-Appellant,

and

PRASHAUNTI NICOLE WHITE,

Respondent.

UNPUBLISHED
January 20, 2009

No. 286848
Calhoun Circuit Court
Family Division
LC No. 07-001334-NA

Before: Talbot, P.J., and Bandstra and Gleicher, JJ.

PER CURIAM.

Respondent Toniko Traylor appeals as of right from a circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that the trial court erred in accepting his plea of admission and in subsequently terminating his parental rights because he did not understand any rights that may have been communicated to him, he was not advised of his right to counsel, and he did not understand the consequences of his plea. We reject these arguments for several reasons.

First, respondent's arguments are not properly presented for review because they are not included in his statement of questions presented. MCR 7.212(C)(5); *Caldwell v Chapman*, 240 Mich App 124, 132; 610 NW2d 264 (2000). Further, these arguments were not raised and addressed below and, therefore, are not preserved. *Rooyakker & Sitz, PLLC v Plante & Moran, PLLC*, 276 Mich App 146, 162; 742 NW2d 409 (2007). Therefore, our review is limited to plain error. *Kloian v Schwartz*, 272 Mich App 232, 242; 725 NW2d 671 (2006).

To the extent that respondent argues that the trial court erred in taking jurisdiction, the issue is not properly before this Court. Where, as here, termination is not ordered at the initial dispositional hearing, the trial court's exercise of jurisdiction cannot be challenged in a collateral attack on appeal from the termination decision; it can only be challenged by direct appeal from the initial order of disposition. *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993); *In re SLH, AJH, & VAH*, 277 Mich App 662, 668-669; 747 NW2d 547 (2008); *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005).

To the extent that respondent contends that the trial court failed to comply with the plea-taking procedure prescribed in MCR 3.971, we note the court did not assume jurisdiction on the basis of any plea by respondent. Rather, the court assumed jurisdiction on the basis of respondent Prashaunti White's admissions that her home was unsuitable for the children and that she had a substance abuse problem. See MCL 712A.2(b)(2). Because the court's jurisdiction is "tied to the children," the petitioner is not required to "sustain the burden of proof at an adjudication with respect to every parent of the children involved in a protective proceeding before the family court can act in its dispositional capacity." *In re CR*, 250 Mich App 185, 205; 646 NW2d 506 (2002). Once the court acquires jurisdiction by virtue of one parent's plea or trial, it can enter an order of disposition against both parents, regardless of the evidence against the other parent. *Id.* at 202-203.

To the extent that respondent contends that the trial court failed to advise him of his right to counsel, his contention is not supported by the record. The record discloses that when respondent first appeared in court in May 2007, he was advised of his right to counsel and of the right to appointed counsel if indigent. See MCR 3.915(B)(1)(a); MCR 3.965(B)(5). Respondent stated that he understood this right. Because he responded appropriately to the question and in so responding stated that he understood his right to counsel, there is no basis for concluding that he did not understand his right to counsel. Although respondent advised the court in subsequent hearings that he had a mental disability, "[l]ow mental ability in and of itself is insufficient to establish that a [person] did not understand his rights." *People v Cheatham*, 453 Mich 1, 36; 551 NW2d 355 (1996). Because respondent did not request appointed counsel at the time, the court was not required to appoint counsel. MCR 3.915(B)(1)(b). When respondent returned to court in March 2008 and requested appointment of counsel and offered proof of indigency, the court appointed counsel as required. Accordingly, we find no error.

Affirmed.

/s/ Michael J. Talbot
/s/ Richard A. Bandstra
/s/ Elizabeth L. Gleicher