

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of AXZALIA MONET JERNAGIN,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CARL FULBRIGHT,

Respondent-Appellant.

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UNPUBLISHED

March 31, 2009

No. 288098

Oakland Circuit Court

Family Division

LC No. 07-732656-NA

Before: Wilder, P.J., and Meter and Servitto, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (h). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that the trial court improperly found jurisdiction over him where the allegations of the petition that related to him were not established by a preponderance of the evidence. However, respondent did not challenge the finding of jurisdiction at any of the review hearings, as allowed by MCL 712A.21, or in a direct appeal. “Matters affecting the court’s exercise of its jurisdiction may be challenged only on direct appeal of the jurisdictional decision, not by collateral attack in a subsequent appeal of an order terminating parental rights.” *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005). Further, we note that the trial court properly asserted jurisdiction over the child based on the plea of her mother. Once jurisdiction was established, MCR 3.973(A) allowed the trial court to take measures against any adult, including respondent. *In re CR*, 250 Mich App 185, 202-203; 646 NW2d 506 (2002).

Next, the trial court properly found that MCL 712A.19b(3)(c)(i) and (g) were established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). Any error in finding other sections established is harmless where only one statutory ground for termination need be established. MCL 712A.19b(3). The conditions leading to adjudication that applied to respondent were his failure to protect the minor child, his inability to care for her, his schizophrenia and not taking medication for that illness, his failure to pay any child support for the child although ordered to do so, and his admission that he would test positive for marijuana.

At the time of the termination trial, respondent was still unable to provide proper care and custody for the child. He had not completed a drug treatment program, he had not shown an ability to comply with psychiatric treatment, and he was incarcerated with an earliest release date of 2013 for breaking into his mother's house and assaulting her. The conditions of adjudication continued to exist where respondent was not able to care for the child and would not be able to rectify the conditions leading to adjudication or provide proper care and custody within a reasonable time.

Finally, the trial court did not err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5). In reaching its best interests decision, the trial court noted respondent's failure to comply with the parent-agency agreement, his mental health issues, his substance abuse issues, his violent behavior, and his incarceration until at least 2013. Respondent and the child did not share a bond, and she reacted in apparent fear of him at visitation.

Affirmed.

/s/ Kurtis T. Wilder  
/s/ Patrick M. Meter  
/s/ Deborah A. Servitto