STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JON'TIA VERDELL BROWN, a Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOHNNY BROWN,

Respondent-Appellant,

and

PATRICIA ANN DENDY,

Respondent.

UNPUBLISHED
December 7, 1999

No. 217614
Wayne Circuit Court
Family Division
LC No. 94-322369

Before: Jansen, P.J., and Hoekstra and J. R. Cooper*, JJ.

PER CURIAM.

Respondent-appellant appeals by delayed leave granted from the family court order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (g), and (j); MSA 27.3178(598.19b)(3)(a)(ii), (g), and (j). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

There is no merit to respondent-appellant's contention that the trial court terminated his parental rights without giving him an opportunity to be heard. "The purpose of any notice is to give the opposite party an opportunity to be heard." *White v Sadler*, 350 Mich 511, 518; 87 NW2d 192 (1957). Respondent-appellant admits that he received legally sufficient notice of the proceedings concerning his son. Thus, respondent-appellant had his chance to be heard. His failure to present himself to the court,

* Circuit judge, sitting on the Court of Appeals by assignment.

or any other authority, until after closing arguments at trial, constituted a waiver of the right to be heard. The trial court did not err in declining to allow respondent-appellant to participate in the trial upon making his belated and informal appearance.

Nor did the court clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Even if respondent-appellant had some contact with the child, because he never sought custody of the child, never cooperated with caseworkers, did not formally appear at any hearing, and never provided support for the statutory period, the trial court properly found that respondent-appellant had abandoned the child under § 19b(3)(a)(ii). See *In re Mayfield*, 198 Mich App 226, 230, 235; 497 NW2d 578 (1993).

Further, because the record indicates that the child resided with respondent-appellant only while respondent-appellant and the child's mother lived together, that the couple failed to provide a home suitable for children at that time, and that respondent-appellant never sought custody of the child, or showed any concern for where the child resided, and especially in light of respondent-appellant's failure before the conclusion of closing arguments at trial to come forward and assert his interests, the trial court was also justified in terminating his parental rights under §§ 19b(3)(g) and (j).

Affirmed.[1]

/s/ Kathleen Jansen
/s/ Joel P. Hoekstra
/s/ Jessica R. Cooper

[1] Counsel for the child adopted petitioner's position at trial, but the child's appellate counsel has chosen to adopt respondent-appellant's position in urging this Court to reverse. However, under the doctrine of invited error, a party is foreclosed from raising as error on appeal any action or decision that the party successfully advocated below. See *In re Smebak*, 160 Mich App 122, 129; 408 NW2d 117 (1987); see also *Vannoy v City of Warren*, 386 Mich 686, 690; 194 NW2d 304 (1972), citing 5 Am Jur 2d, Appeal and Error, §§ 713-722, pp 159-166.