

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JIMMON MARQUISE WARD,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

GERALD CANNON,

Respondent-Appellant,

and

LATOYA HOLLOWAY,

Respondent.

UNPUBLISHED
February 22, 2002

No. 231317
Wayne Circuit Court
Family Division
LC No. 96-347935

Before: Smolenski, P.J., and Doctoroff and Owens, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g) and (j). This case is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

Respondent-appellant argues that the trial court erred in dismissing his court-appointed attorney before the adjudicative trial. He also argues that the evidence was not sufficient to establish that the child came within the court's jurisdiction. Both of these arguments are, in substance, collateral attacks on the trial court's jurisdiction. Because a respondent cannot collaterally attack the trial court's jurisdiction in an appeal of an order terminating parental rights, we need not consider these issues. *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993).

In an action to terminate a respondent's parental rights, petitioner bears the burden of establishing by clear and convincing evidence at least one statutory ground for termination. *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000). We review for clear error both the court's decision that a ground for termination has been proven by clear and convincing evidence

and, where appropriate, its decision regarding the child's best interest. *Id.* at 356-357; MCR 5.974(I). Here, we find that petitioner-appellee did not successfully bear its burden of proving grounds for termination under subsections 19b(3)(c)(i) and (j). However, the trial court did not clearly err in finding that subsection 19b(3)(g) was established by clear and convincing evidence. MCR 5.974(I), *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The totality of the evidence showed that respondent-appellant lacked the commitment to provide proper care and custody on a consistent, ongoing basis. Respondent-appellant was given nearly two years to demonstrate that commitment. Near the end of that period, when respondent-appellant knew he was being given his last chance at reunification, he left the state and his child for two months, and failed to provide a compelling reason for his prolonged absence. Termination was proper under subsection 19b(3)(g). Although the evidence was not sufficient to support termination under subsections 19b(3)(c)(i) and (j), the trial court is required only to find grounds for termination under one statutory provision. *In re Trejo, supra* at 350.

Finally, because the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests, the trial court did not clearly err in terminating his parental rights. MCL 712A.19b(5); *In re Trejo, supra* at 356-357.

Affirmed.

/s/ Michael R. Smolenski
/s/ Martin M. Doctoroff
/s/ Donald S. Owens