

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AALIYAH S. ANDREWS,
TABATHA M. AITKEN, LISA J. AITKEN,
TROY A. BOOTERBAUGH, and BRITTANY A.
BOOTERBAUGH, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KAREN S. HILL,

Respondent-Appellant.

In the Matter of AALIYAH S. ANDREWS, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LEO S. ANDREWS,

Respondent-Appellant,

and

KAREN S. HILL,

Respondent.

UNPUBLISHED
December 14, 2006

No. 270419
Wayne Circuit Court
Family Division
LC No. 04-430749-NA

No. 270445
Wayne Circuit Court
Family Division
LC No. 04-430749-NA

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

PER CURIAM.

In these consolidated appeals, respondent mother appeals as of right from an order terminating her parental rights to the five minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), (j), and (k)(ii). Respondent father appeals as of right from the same order terminating his parental rights to Aaliyah pursuant to the same subsections. We affirm. These appeals are being decided without oral argument pursuant to MCR 7.214(E).

Respondent father first argues that the trial court lacked jurisdiction. 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 Hatcher*, 443 Mich 426, 439-440; 505 NW2d 834 (1993). Respondent father failed to appeal directly from the trial court's assertion of jurisdiction and has forfeited the issue.

Respondents also argue that the trial court erred in terminating their parental rights. We disagree. In order to terminate respondent's parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 WN2d 293 (1993). We review the trial court's findings in termination proceedings for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 256-257; 612 NW2d 407 (2000).

The trial court did not err in finding that the statutory grounds for termination were established with regard to both respondents by clear and convincing evidence. The evidence established that respondent mother abandoned the children for purposes of subsection 19b(3)(a)(ii) and (k)(i). She made no attempt to visit the children or provide for them from May 2005 until December 2005, when she discovered that they had been removed from her mother's care. Termination was also appropriate pursuant to subsections 19b(3)(c)(i), (g), and (j). The issues that respondent mother was dealing with when the children were first made temporary wards in May 2004 continued to be a problem: she had no home, no legal income, and a substance abuse problem that was not being treated. She failed to comply with virtually every aspect of her parent-agency agreement.

The evidence also established that respondent father abandoned Aaliyah for purposes of subsection 19b(3)(a)(ii) and (k)(i). He failed to visit Aaliyah since 2004 and was content to let others care for her. Additionally, there was clear and convincing evidence to terminate respondent father's parental rights pursuant to subsection 19b(3)(c)(i), (g), and (j). In the two years that Aaliyah was a temporary ward, respondent father made no progress with his parent-agency agreement. He refused to participate in reunification services because he intended to let the maternal grandmother raise Aaliyah. Respondent father had other children that were temporary court wards contemporaneous to this case. He failed to demonstrate that he had the means to care for the child. There was no evidence that he had a legal source of income or adequate housing.

Finally, the trial court did not clearly err in finding that there was insufficient evidence to conclude that the child's best interests precluded termination of respondent's parental rights. MCL 712A.19b(5); *In re Trejo, supra* at 354-355. The worker testified that she had an opportunity to observe the visits between respondent mother and the children. The visits were appropriate and there was evidence of bonding. There was also evidence of good parenting. However, respondent mother had not visited with the children for nearly a year by the time the termination order was entered. Whatever bond may have existed before that time was compromised. Additionally, the children had been temporary wards for nearly two years during which time respondent mother made absolutely no progress. With regard to respondent father, Aaliyah had been a court ward since May 2004. During that time, respondent father did little to show an interest in caring for the child. He failed to visit her at all in 2005 and 2006. Whatever bond may have existed was also compromised. The children were entitled to permanence and stability.

Affirmed.

/s/ William B. Murphy
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly