STATE OF MICHIGAN

COURT OF APPEALS

In re DEANAI L. MCCLENDON, and NAFISA DENISE MCCLENDON, Minors

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DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

DONALD BROWN,

Respondent-Appellant,

and

PAULA MCCLENDON and MICHAEL MONTGOMERY,

Respondents.

UNPUBLISHED
April 8, 1997

No. 180673
Wayne County Probate Court
LC No. 91-292831

DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

PAULA MCCLENDON,

Respondent-Appellant,

and

No. 180864
Wayne County Probate Court
LC No. 91-292831

MICHAEL MONTGOMERY and DONALD BROWN,

Respondents.

Before: Holbrook, Jr., P.J, and White and S. J. Latreille*, JJ.

PER CURIAM.

In Docket No. 180673, respondent Donald Brown appeals from the probate court order terminating his parental rights to Deanai L. McClendon under MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). In Docket No. 180864, respondent Paula McClendon appeals from the probate court order terminating her parental rights to Deanai L. McClendon and Denise McClendon under MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). We affirm.

Neither respondent has established grounds for vacating the probate court's order terminating parental rights. MCR 5.991. Contrary to respondent Brown's argument, the record does not reflect that the referee's decision was based on § (3)(g) of MCL 712A.19b; MSA 27.3178(598.19b). Rather, the referee relied on § (3)(c)(i), and we are satisfied from the record that the referee did not clearly err in finding that this statutory ground was proven by clear and convincing evidence as to both respondents, given the length of time the children were in foster care and the limited progress of respondents. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Dahms*, 187 Mich App 644, 647; 468 NW2d 315 (1991). Also, the referee did not abuse her discretion in ruling that termination of respondents' parental rights was in the best interests of the children. *In re Jackson*, 199 Mich App 22; 501 NW2d 182 (1993).

We do not agree with respondent McClendon's claim that the case should be remanded for a determination whether there are suitable relatives willing to care for the children. To properly preserve this claim for appeal, it should have been raised in the probate court. See *Peterman v Dep't of Natural Resources*, 446 Mich 177, 183; 521 NW2d 499 (1994); MCR 5.991.[1] Further, we are satisfied that the referee properly considered the best interests of the children in recommending that parental rights be terminated rather than continuing the temporary wardship of the children. *In re McIntrye*, 192 Mich App 47; 480 NW2d 293 (1991). We do not address the jurisdictional issue raised by respondent McClendon because the probate court's exercise of jurisdiction is not subject to collateral attack in this appeal. *In re Hatcher*, 443 Mich 426; 505 NW2d 834 (1993); *In re Bechard*, 211 Mich App 155; 535 NW2d 220 (1995).

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

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Helene N. White
/s/ Stanley J. Latreille

[1] There is some indication that the issue of relative placement was considered during the proceedings inasmuch as respondent Brown's attorney questioned a foster care worker about the investigation of Brown's relatives at the September 25, 1992 dispositional review hearing.