

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MICHELLE LOUISE FINCHER,
JENNIFER ALEXANDRIA RIDGE, and
CHRISTINE LYNN-MARIE WILLBANKS,
Minors.

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

UNPUBLISHED
March 15, 2007

Petitioner-Appellee,

v

PAMELA ALEASE WILLBANKS, a/k/a
PAMELA ALEASE FINCHER,

No. 270944
Wayne Circuit Court
Family Division
LC No. 04-436795-NA

Respondent-Appellant,

and

MICHAEL RIDGE and DAVID SMITH,

Respondents.

Before: Cooper, P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

First, we find that the court properly established its jurisdiction. Whether a trial court had subject-matter jurisdiction over a claim presents a question of law that is reviewed de novo. *Ryan v Ryan*, 260 Mich App 315, 331; 677 NW2d 899 (2004). A court's jurisdiction in child protective proceedings is governed by MCL 712A.2(b). The valid exercise of jurisdiction is established by the contents of the petition after the court conducts a probable cause hearing on the allegations. *In re Hatcher*, 443 Mich 426, 437-438; 505 NW2d 834 (1993). Respondent-appellant admitted to some of the allegations in the petition. Based on two substantiated

allegations, the court assumed jurisdiction and the children were made temporary wards of the court. Upon de novo review, we find that the two substantiated allegations in the petition were sufficient to establish jurisdiction under MCL 712A.2(b)(1) and (2).¹

Next, we find that respondent-appellant was not denied her due process right to notice and an opportunity to be heard. *In re Nunn*, 168 Mich App 203, 208-209; 423 NW2d 619 (1988). Respondent-appellant failed to raise the issue of notice in the trial court. Thus, she must demonstrate plain error that affected her substantial rights; i.e., she must establish that a different outcome would have resulted absent the error. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); see also *In re Osborne*, 237 Mich App 597, 606; 603 NW2d 824 (1999).

Statements at the preliminary hearings indicated that respondent-appellant had been informed of the hearings,² but she nonetheless was not present at them. With regard to additional hearings from which respondent was absent, it appears that respondent-appellant had failed to keep the pertinent parties apprised of her current contact information. Any error was due to respondent-appellant's own actions. Moreover, respondent-appellant was present for both sessions of the termination bench trial. She acknowledged timely receipt of the petition and made no claims regarding notice. See *In re Gazella*, 264 Mich App 668, 679; 692 NW2d 708 (2005) (“[a] litigant may not harbor error, to which he or she consented, as an appellate parachute”). Under all the circumstances, respondent-appellant, with regard to notice, has failed to demonstrate any plain error that affected her substantial rights.

Next, we address respondent-appellant's claim that she was denied due process when the court did not comply with the time-related and other requirements of MCR 3.965(D)(1) and MCR 3.973(C). These court rules do not provide any sanctions for failure to comply with them. “This Court will not impose sanctions that the Legislature and the Supreme Court have declined to impose.” *In re Jackson*, 199 Mich App 22, 28-29; 501 NW2d 182 (1993); *In re Kirkwood*, 187 Mich App 542, 546; 468 NW2d 280 (1991). In addition, respondent-appellant did not object below to the court's actions in this regard. Thus, she has forfeited this issue, *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000), and we find no plain error affecting substantial rights, *Carines, supra* at 763-764.

We also find no merit to respondent-appellant's claim that she was prejudiced by delays in implementing her treatment plan. The record is replete with instances of respondent-appellant's noncompliance and uncooperative attitude. She failed to show up for scheduled evaluations and counseling appointments and gave false information to the workers and court, even after the order for the treatment plan was signed. Just two weeks before the final trial date, respondent-appellant was arrested for driving with a suspended license, and the police found

¹ Moreover, as stated in *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005), “[m]atters 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.”

² As noted in MCR 3.920(C)(2)(b), notice of a preliminary hearing “may be in person, in writing, on the record, or by telephone.”

heroin in her purse. Respondent-appellant missed numerous weekly random drug screens. Considering the significant lack of compliance, respondent-appellant cannot be heard to complain about any delay.

Respondent-appellant contends that the trial court clearly erred in finding clear and convincing evidence to support the statutory grounds for termination. However, respondent-appellant abandoned this issue by failing to address the merits of this issue in her brief. *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959); *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002). Moreover, given respondent-appellant's failure to comply with her parent-agency agreement, the trial court did not clearly err in finding that the statutory grounds for termination were established. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Finally, we find that the trial court did not clearly err in finding that termination of respondent-appellant's parental rights was in the best interests of the children. MCL 712A.19b(5). The evidence on the whole record supported the court's conclusion. *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000).

Affirmed.

/s/ Jessica R. Cooper
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter