

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MIA M. NOBLES and MYA M.
NOBLES, Minors.

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

UNPUBLISHED
April 20, 2006

Petitioner-Appellee,

v

LIZZIE L. NOBLES,

Respondent-Appellant,

and

MICHAEL MATHEWS,

Respondent.

No. 265057
Wayne Circuit Court
Family Division
LC No. 98-364811-NA

Before: Murphy, P.J., and O'Connell and Murray, JJ.

PER CURIAM.

Respondent-appellant, Lizzie L. Nobles (Respondent),¹ appeals as of right the order terminating her parental rights to the minor children under MCL 712A.19b(3)(i), (g), and (j). We affirm.

Respondent does not challenge the trial court's substantive findings regarding termination. Rather, respondent argues that the trial court did not have personal jurisdiction over her because it failed to sufficiently serve her with notice and summons. However, respondent failed to preserve this issue for review by not raising the issue with the trial court when she appeared at the termination hearing. *In re NEGP*, 245 Mich App 126, 134; 626 NW2d 921 (2001). Although respondent testified at trial that she did not receive notice until she made a telephone call the week before, no argument was made (nor was any adjournment requested) to the trial court that it had no personal jurisdiction over respondent.

¹ Respondent Mathews is not a party to this appeal.

Further, respondent waived any notice defects when she participated in the hearing and failed to object on the record to any notice defects. See MCR 3.920(G). Although respondent argues that waiver of notice must be in writing, MCR 3.920(G) provides a separate form of waiver; it does not state that the respondent must also sign a written waiver. Respondent also improperly relies on a decision published long before this court rule went into effect, *In re Brown*, 149 Mich App 529, 541; 386 NW2d 577 (1986), and therefore it is to no avail.

Even if respondent had preserved this issue for review and had not waived notice, her arguments on the merits fail. If the trial court failed to follow the statutory notice requirements in MCL 712A.12 and MCL 712A.13, this constituted a jurisdictional defect, *In re Mayfield*, 198 Mich App 226, 231; 497 NW2d 578 (1993), which rendered all further proceedings regarding respondent void, including the order terminating her parental rights. *In re AMB*, 248 Mich App 144, 173; 640 NW2d 262 (2001). A child's parents must be personally served with notice of a petition, MCL 712A.12, unless "the judge is satisfied that it is impracticable" to personally serve the notice. In that case, "he may order service by registered mail addressed to their last known addresses, or by publication." MCL 712A.13. This does not prohibit a court from ordering alternative service methods at the same time that it orders personal service,² nor does it require an express finding that personal service is impracticable.

In the present case, the record establishes that further personal service attempts were impracticable and, therefore, notice by publication was warranted. See MCL 712A.13; see also *In re SZ*, 262 Mich App 560, 565-570; 686 NW2d 520 (2004). Personal service and certified mail were unsuccessfully attempted at respondent's last known address. She claimed she was homeless shortly after the last child was born, she did not offer any other address or telephone number, and petitioner had no further contact with her except respondent's voice mail messages, which did not include a return telephone number. Respondent does not claim petitioner had any additional information about her or that any specific additional effort would have located her. Therefore, publication in a widely circulated publication in the county in which respondent resides was proper.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Christopher M. Murray

² Although it is preferable for the trial court to first attempt personal service, and only after that has failed and no other means of attempting personal service exists, should alternate serve be attempted.