

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of SETH MORRISON, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BRIAN BORCHERT,

Respondent-Appellant.

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UNPUBLISHED

October 16, 2008

No. 286147

Marquette Circuit Court

Family Division

LC No. 07-008724-NA

Before: Servitto, P.J. and Donofrio and Hood, JJ.

MEMORANDUM.

Respondent appeals as of right from a circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g) (failure to provide proper care or custody). Because respondent had adequate notice of the underlying factual basis for termination of his parental rights, and respondent specifically denied the allegation and proffered his defense consistent with a § 19b(3)(g) charge, respondent's due process rights were not violated. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent's sole claim on appeal is that termination of his parental rights under § 19b(3)(g) violated his due process rights because he was not given sufficient notice that termination was being sought under that ground. Constitutional issues are generally reviewed de novo on appeal. *Co Rd Ass'n of Michigan v Governor*, 474 Mich 11, 14; 705 NW2d 680 (2005).

Parents have fundamental due process rights in child protective proceedings. *In re CR*, 250 Mich App 185, 204; 646 NW2d 506 (2002). "Due process in civil cases generally requires notice of the nature of the proceedings, and an opportunity to be heard in a meaningful time and manner, and an impartial decisionmaker." *In re Juvenile Commitment Costs*, 240 Mich App 420, 440; 613 NW2d 348 (2000). Thus respondent was entitled to notice of the charges against him. *In re Slis*, 144 Mich App 678, 683; 375 NW2d 788 (1985).

The petition sought termination in part under § 19b(3)(h), but did not request termination under § 19b(3)(g). However, respondent had adequate notice of the statutory basis for termination because the elements of the latter subsection are included within the elements of the former, and in alleging a factual basis for termination under § 19b(3)(h), the petition specifically stated that respondent "has not provided proper care or custody of Seth, either prior to or since

his incarceration.” Respondent specifically denied the allegation and proffered his defense consistent with the §19b(3)(g) charge. Accordingly, there was no due process violation. *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 768 (1992).

Affirmed.

/s/ Deborah A. Servitto  
/s/ Pat M. Donofrio  
/s/ Karen M. Fort Hood