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2013 IL App (3d) 130101-U

Order filed November 7, 2013

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2013

<i>In re</i> M.S.J.,)	Appeal from the Circuit Court
)	of the 9th Judicial Circuit,
a Minor)	McDonough County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Appeal No. 3-13-0101
)	Circuit No. 12-JA-20
v.)	
)	
Bettie J.,)	Honorable
)	Patricia A. Walton,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Justices O'Brien and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not lack subject matter jurisdiction to enter the adjudicatory and dispositional orders in this case.

¶ 2 The respondent mother, Bettie J., appeals from the trial court's orders finding M.S.J. to be neglected and finding the respondent to be unfit. She argues the orders were void because the trial court lacked subject matter jurisdiction due to its failure to commence the adjudicatory hearing

within the applicable statutory time frame. We affirm.

¶ 3

FACTS

¶ 4 On September 26, 2012, the State filed a petition for adjudication of wardship, alleging that M.S.J. was a neglected minor due to an injurious environment. 705 ILCS 405/2-3(1)(b) (West 2012). That same day, the State filed a petition for temporary custody of M.S.J., and the parties appeared in court for a shelter care hearing. The court's order indicated that the respondent received notice and was present. M.S.J. was placed in the temporary guardianship of the Department of Children and Family Services.

¶ 5 On October 18, 2012, the first appearance following the shelter care hearing took place, for which the respondent appeared with her attorney. On November 20, 2012, the respondent appeared in court with her attorney and denied the allegations of the petition.

¶ 6 On January 10, 2013, an adjudication hearing took place. The trial court found M.S.J. to be neglected by reason of an injurious environment. The respondent filed a motion to reconsider, which the trial court denied. On February 7, 2013, the respondent was found dispositionally unfit. Respondent appealed.

¶ 7

ANALYSIS

¶ 8 On appeal, the respondent argues the adjudicatory and dispositional orders are void because the trial court lost subject matter jurisdiction by failing to hold the adjudicatory hearing within 90 days of the respondent's appearance in court on September 26, 2012. Whether the trial court properly exercised its jurisdiction is reviewed *de novo*. *In re John C.M.*, 382 Ill. App. 3d 553 (2008). A judgment that is entered with lack of subject matter jurisdiction is void and may be attacked at any time and in any proceeding. *Id.*

¶ 9 Section 2-14(b) of the Juvenile Court Act provides:

"When a petition is filed alleging that the minor is abused, neglected or dependent, an adjudicatory hearing shall be commenced within 90 days of the date of service of process upon the minor, parents, any guardian and any legal custodian, unless an earlier date is required pursuant to Section 2-13.1. Once commenced, subsequent delay in the proceedings may be allowed by the court when necessary to ensure a fair hearing." 705 ILCS 405/2-14(b) (West 2012).

The appearance of the minor's legal guardian or custodian, or person named as a respondent in a petition shall constitute a waiver of service of summons and submission to the jurisdiction of the court. 705 ILCS 405/2-15(7) (West 2012).

¶ 10 Except for the trial court's power to review administrative actions, which is conferred by statute, the exclusive source of a trial court's subject matter jurisdiction is the Illinois Constitution. *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325 (2002). The failure of a court to adhere to the "strictures of [a] statute" does not deprive the court of its constitutionally conferred subject matter jurisdiction but, instead, the court proceeds in error without statutory authority. *In re C.S.*, 294 Ill. App. 3d 780, 786 (1998) (quoting *In re M.M.*, 156 Ill. 2d 53, 66 (1993)). Any error of the trial court in failing to hold the adjudicatory and dispositional hearings prior to statutory deadlines does not render the order void for lack of subject matter jurisdiction. *Id.*

¶ 11 In this case, the State concedes that the adjudicatory hearing of January 10, 2013, was not commenced within the statutory 90-day requirement. However, although the trial court proceeded in error with the adjudication hearing beyond the 90 days, it did not lose subject matter jurisdiction to enter the adjudication order. Therefore the order was not void.

¶ 12 The respondent failed to file a motion to dismiss the petition or raise the issue of the trial court's error of failing to hold a timely adjudication hearing. Therefore, the respondent forfeited the issue by failing to raise the error in the trial court and cannot raise it for the first time on appeal. See *In re John Paul J.*, 343 Ill. App. 3d 865 (2003); *In re S.W.*, 342 Ill. App. 3d 445 (2003). Consequently, we affirm the trial court's adjudicatory and dispositional orders.

¶ 13 CONCLUSION

¶ 14 The judgment of the circuit court of McDonough County is affirmed.

¶ 15 Affirmed.