

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2018 IL App (4th) 170726-U

NO. 4-17-0726

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
January 18, 2018
Carla Bender
4th District Appellate
Court, IL

<i>In re</i> Z.B. and A.B., Minors)	Appeal from
)	Ford County
)	Circuit Court
(The People of the State of Illinois,)	No. 14JA06
Petitioner-Appellee,)	
v.)	Honorable
Brent Brucker,)	Matthew J. Fitton,
Respondent-Appellant).)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Steigmann and DeArmond concurred in the judgment of the court.

ORDER

¶ 1 *Held:* Respondent’s appeal is dismissed for lack of jurisdiction.

¶ 2 On August 14, 2017, the trial court terminated the parental rights of respondent, Brent Brucker, as to his minor children, Z.B. and A.B. On appeal, respondent argues the trial court’s best-interest determination was against the manifest weight of the evidence. We dismiss the appeal for lack of jurisdiction.

I. BACKGROUND

¶ 3 Respondent and Jessica Creek are the parents of Z.B. (born May 29, 2012) and A.B. (born January 29, 2014). In August 2014, the State filed a petition for adjudication of wardship, alleging Z.B. and A.B. were neglected minors because respondent had passed out due to the consumption of alcohol while in the presence of Z.B. and A.B. On August 26, 2014, a

shelter care hearing was conducted during which respondent and Creek stipulated that Z.B. and A.B. were abused or neglected. On June 29, 2015, the trial court entered a dispositional order, making Z.B. and A.B. wards of the court and placing custody and guardianship with the Illinois Department of Children and Family Services (DCFS).

¶ 4 On April 26, 2016, the State filed a petition seeking a finding of unfitness and termination of Creek and respondent's parental rights. The State alleged respondent was unfit because he failed to (a) make reasonable efforts to correct the conditions that were the basis for the removal of Z.B. and A.B. (750 ILCS 50/1(D)(m) (West 2016)); (b) make reasonable progress toward the return of Z.B. and A.B. within 9 months after an adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2016)). The State further alleged that termination of parental rights was in Z.B. and A.B.'s best interests.

¶ 5 On August 29, 2016, both respondent and Creek were found unfit. On March 27, 2017, Creek executed a final and irrevocable surrender of her parental rights. Creek is not a party to this appeal.

¶ 6 The trial court conducted a best-interest hearing on August 14, 2017. Based on the evidence presented, the court found it was in Z.B. and A.B.'s best interests that respondent's parental rights be terminated.

¶ 7 The court entered a written order terminating respondent's parental rights on Monday, August 14, 2017.

¶ 8 Respondent filed his notice of appeal on Thursday, September 14, 2017.

¶ 9 II. ANALYSIS

¶ 10 On appeal, respondent argues the trial court's best-interest determination was

against the manifest weight of the evidence. We find this court lacks jurisdiction to address the issue presented by respondent.

¶ 11 Initially, we note that “[a] reviewing court has an independent duty to consider issues of jurisdiction, regardless of whether either party has raised them.” *People v. Smith*, 228 Ill. 2d 95, 104, 885 N.E.2d 1053, 1058 (2008). Under Illinois Supreme Court Rule 303(a)(1) (eff. July 1, 2017), an appealing party’s “notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from” or “within 30 days after the entry of the order disposing of the last pending postjudgment motion.” “In the absence of a properly filed notice of appeal, the appellate court lacks jurisdiction and must dismiss the appeal.” *Huber v. American Accounting Ass’n*, 2014 IL 117293, ¶ 8, 21 N.E.3d 433.

¶ 12 Here, the record fails to reflect that respondent filed a notice of appeal within 30 days after the court entered its written order terminating respondent’s parental rights. Respondent did not file a postjudgment motion. The court’s final order was entered on August 14, 2017. Respondent was required to file his notice of appeal on or before September 13, 2017, *i.e.*, within the 30-day appeal period. He did not file his notice of appeal until September 14, 2017, nor did he request an extension of the 30-day time limit. Ill. S. Ct. R. 303(d) (eff. Jan. 1, 2015). Thus, respondent’s notice of appeal was untimely. Because the notice of appeal was untimely, this court lacks jurisdiction to address the merits of respondent’s claim and his appeal must be dismissed.

¶ 13 We note that, at the conclusion of the best interest hearing, the trial court erroneously advised respondent he had 60 days—not 30 days—in which to file an appeal. However, because respondent does not assert he was misled by the court’s incorrect

admonishment, we need not address the matter further.

¶ 14

III. CONCLUSION

¶ 15

For the reasons stated, we dismiss this appeal for lack of jurisdiction.

¶ 16

Appeal dismissed.