

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHLEIGH FLINT, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ANDREW KNIGHT,

Respondent-Appellant,

and

AMANDA FLINT,

Respondent.

UNPUBLISHED

August 31, 1999

No. 215938

Ionia Circuit Court

Family Division

LC No. 97-000163 NA

Before: Markman P.J., and Saad and P. D. Houk*, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the family court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not err in failing to appoint counsel for respondent-appellant after the February 4, 1998, review hearing, because respondent-appellant was not properly a “respondent” as defined by MCR 5.903(C)(8), until the termination petition was subsequently filed on September 17, 1998. By that time, respondent-appellant was represented by counsel, the trial court having sua sponte appointed counsel for respondent-appellant at the permanency planning hearing on August 5, 1998, when the court directed petitioner to file the termination petition. Contrary to respondent-appellant’s

* Circuit judge, sitting on the Court of Appeals by assignment.

argument, there is no indication that the trial court was contemplating termination of his parental rights at the February 4, 1998, dispositional review hearing. However, even if termination were a “possibility” at the time of the February 4, 1998, review hearing, that fact alone did not require that the trial court sua sponte appoint counsel for respondent-appellant. MCR 5.915(B)(1); *In re Hall*, 188 Mich App 217; 469 NW2d 56 (1991).

Thus, because respondent-father did not have a right to court-appointed counsel until he became a “respondent,” and because he did not properly become a respondent until the termination petition was filed against him on September 17, 1998, he was not deprived of procedural due process on the basis that the trial court did not appoint counsel for him after the February 4, 1998, hearing.

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk