STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of S.F., J.F., J.A., and P.A., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ERIC R. FERRELL, II,

Respondent-Appellant.

UNPUBLISHED
October 1, 2002

No. 240084
Muskegon Circuit Court
Family Division
LC No. 01-029943-NA

Before: Whitbeck, C.J. and Sawyer and Kelly, JJ.

PER CURIAM.

Respondent appeals the trial court's order terminating his parental rights to his children pursuant to MCL 712A.19b(3)(g) and (k)(v).[1] We affirm.

Petitioner sought termination of respondent's parental rights on the grounds that he sexually abused S.F. and that he inflicted injuries on another child while imposing discipline. Petitioner moved to allow into evidence certain hearsay statements made by S.F. At a pre-trial hearing a physician testified that he examined S.F. and detected signs of sexual abuse. A protective services worker and a therapist testified that they interviewed S.F. on separate occasions using standard interview protocols designed to maximize consistency, and that S.F. stated that respondent sexually abused her. The interviews were not recorded on the advice of the prosecutor's office. The trial court held the statements were admissible pursuant to MCR 5.972(C)(2), noting the statements were consistent and were corroborated by the physician's report.

[1] The petition seeking termination of respondent's parental rights indicates that respondent is not the father of P.A.; nevertheless, the order from which respondent appeals specifically terminates respondent's parental rights to P.A. as well as to the other children. The trial court did not terminate the parental rights of non-participating respondent Joann Anderson, the mother of all the children. The children were placed with their mother.

The permanent custody hearing was adjourned at petitioner's request. Respondent stated on the record that his address was 1931 Reynolds in Muskegon. Notice of the adjourned hearing date was sent to 292 Washington in Muskegon, the address for respondent contained in the court file. When the permanent custody hearing resumed, respondent did not appear. The trial court held the hearing could proceed in respondent's absence because notice had been sent to the address contained in the court file. At the conclusion of the hearing the trial court terminated respondent's parental rights.

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id*., 356-357.

A statement made by a child under ten years of age describing an act of child abuse performed on the child that is not otherwise admissible under an exception to the hearsay rule may be admitted into evidence at trial if the trial court has conducted a pre-trial hearing and found that: (1) the nature and circumstances surrounding the giving of the statement provide adequate indicia of trustworthiness; and (2) there is sufficient corroborative evidence of the act. MCR 5.972(C)(2); *In re Snyder*, 223 Mich App 85, 91; 566 NW2d 18 (1997).

Respondent argues the trial court abused its discretion by admitting S.F.'s statements into evidence. He contends that because the statements were not recorded, the trial court could not determine they provided adequate indicia of trustworthiness. We disagree. No authority requires that a child's statement in a case such as this be recorded. In holding that S.F.'s statements were admissible, the trial court noted the statements, which were made on separate days to different interviewers, were consistent. The interviewers followed the same protocols. The interviewers asserted that they did not offer S.F. anything in exchange for a statement implicating respondent. S.F.'s statements regarding sexual abuse were corroborated by Dr. Buchanan's report detailing his examination. No abuse of discretion occurred.

Furthermore, respondent argues he was denied due process because he was not properly served with notice of the adjourned date of the permanent custody hearing as required by MCR 2.105(A) and MCR 5.920(C)(3). Specifically, respondent notes that notice of the adjourned hearing date was sent to 292 Washington, notwithstanding that he stated on the record that his address was 1931 Franklin. We disagree. At the resumed permanent custody hearing the trial court determined that respondent was served at the address listed in the file. Subsequently, respondent accepted service of the order terminating his parental rights at the Washington address. Respondent has not established the service was improper.

Respondent does not argue the trial court's finding that the FIA established by clear and convincing evidence the existence of one or more statutory grounds for termination of his parental rights was clearly erroneous. MCL 712A.19b(3). He is not entitled to relief.

Affirmed.

/s/ William C. Whitbeck
/s/ David H. Sawyer
/s/ Kirsten Frank Kelly