# STATE OF MICHIGAN

# COURT OF APPEALS

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In the Matter of LOGAN and PATRICK PAULSON, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CAROLINE BENJAMIN and SYKLAR PAULSON,

Respondents-Appellants.

UNPUBLISHED
September 18, 1998

No. 204861
Bay Juvenile Court
LC No. 93-004850 NA

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Before: Holbrook, Jr., P.J., and Wahls and Cavanagh, JJ.

PER CURIAM.

Respondents-appellants ("respondents") appeal as of right from a juvenile court order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). We affirm.

Respondents first argue that remarks made by the trial court and the prosecutor at the adjudicatory jury trial denied them a fair trial because the remarks suggested that "services" could be offered to the family when, in fact, petitioner had requested termination of respondents' parental rights in the initial petition. We disagree.

As an initial matter, petitioner argues that respondents' appeal of this issue is barred by *In re Hatcher*, 443 Mich 426, 436; 505 NW2d 834 (1993), which prohibits a party from collaterally attacking a juvenile court's assumption of jurisdiction in a child protective proceeding. However, we are not persuaded that *Hatcher* applies to this case, given that respondents' parental rights were terminated at the initial disposition hearing.

Turning to the merits of respondents' argument, we note that none of the challenged remarks received an objection at trial. In the absence of an objection, this Court will review the

matter only to prevent a miscarriage of justice. *People v Mitchell*, 223 Mich App 395, 400; 566 NW2d 312 (1997), remanded on other grounds 456 Mich 944; 576 NW2d 169 (1998); *People v Paquette*, 214 Mich App 336, 340; 543 NW2d 342 (1995).

The record reveals that the challenged remarks did not deprive respondents of a fair trial. Further, the trial court's statements did not pierce the veil of judicial impartiality. See *People v Collier*, 168 Mich App 687, 697; 425 NW2d 118 (1988).[1] Thus, a miscarriage of justice has not been shown.

Next, respondents argue that they should have been accorded accommodation under the Americans with Disabilities Act (ADA), 42 USC § 12131 et seq. Because this argument was not raised before the trial court, it is not preserved for appeal. Regardless, we find it to be without merit. See *J G v Arkansas Dep't of Human Services*, 947 SW2d 761, 768 (Ark, 1997); *In re B S*, 166 Vt 345; 693 A2d 716, 720 (1997); *In re Torrance P*, 187 Wis 2d 10; 522 NW2d 243, 245-246 (Wis App, 1994); *Stone v Daviess Co Division of Children and Family Services*, 656 NE2d 824, 830 (Ind App, 1995); *In re John D*, 123 NM 114; 934 P2d 308, 315 (NM App, 1997).

Finally, this case is factually distinguishable from *In re Newman*, 189 Mich App 61; 472 NW2d 38 (1991). Unlike the respondents in *Newman*, who were not given sufficient assistance in overcoming their deficiencies, respondents here received extensive services from petitioner, but did not benefit from them. Respondents have failed to explain how the services they received could have been any different, or any better.

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Myron H. Wahls
/s/ Mark J. Cavanagh

[1] Respondents also object to a series of statements taken from the parties' stipulated statement of facts. However, having agreed to the presentation of facts at trial, respondents cannot be heard to complain on appeal. See *People v McCray*, 210 Mich App 9, 14; 533 NW2d 359 (1995).