STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of A.H.H. V and B.D.S.H., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PAULA SCHREINER,

Respondent-Appellant,

and

ARTHUR HENRY HUGE IV,

Respondent.

UNPUBLISHED
December 21, 2004

No. 252147
Macomb Circuit Court
Family Division
LC No. 95-041896-NA

Before: Cavanagh, P.J., and Jansen and Fort Hood, JJ.

PER CURIAM.

Respondent-appellant Paula Schreiner (hereinafter "respondent") appeals as of right from an order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), (j), and (l). We affirm.

Respondent argues that she was denied her right to procedural due process because the trial court refused to subpoena all fourteen witnesses who she requested be produced for the termination hearing.

As this Court observed in *In re CR*, 250 Mich App 185, 204; 646 NW2d 506 (2002):

> A procedural due process analysis requires a court to consider "(1) whether a liberty or property interest exists which the state has interfered with, and (2) whether the procedures attendant upon the deprivation were constitutionally sufficient."

> There is no question that parents have a due process liberty interest in caring for their children and that child protective proceedings affect that liberty interest. [Quoting *In re AMB*, 248 Mich App 144, 209; 640 NW2d 262 (2001).]

Although respondent provided a list of fourteen witnesses who she requested be subpoenaed, she subsequently waived subpoenas for several witnesses who were already present or who were friends or relatives of respondent. On appeal, respondent does not address which specific witnesses she requested be produced, but did not testify as a result of the trial court's ruling. It appears that respondent's challenge ultimately involves only three former caseworkers assigned to this matter. The trial court determined that it was not necessary to subpoena the former caseworkers because the caseworker presently assigned to the matter could testify about the case history based upon the prior caseworkers' reports.

As the trial court observed, because petitioner sought to terminate respondent's parental rights based on the same circumstances that led to the court's assumption of jurisdiction, and the children had been in foster care, the rules of evidence did not apply. Rather, any material and relevant evidence could be received. MCR 3.977(G)(2); *In re Vasquez*, 199 Mich App 44, 50-51; 501 NW2d 231 (1993). In particular, MCR 3.977(G)(2) provides:

> (2) *Evidence.* The Michigan Rules of Evidence do not apply, other than those with respect to privileges, except to the extent such privileges are abrogated by MCL 722.631. At the hearing all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value. The parties must be afforded an opportunity to examine and controvert written reports so received and shall be allowed to cross-examine individuals who made the reports when those individuals are reasonably available.

Therefore, the trial court correctly observed that the caseworker presently assigned to this matter could testify about the case history based upon the reports of the prior caseworkers.

Furthermore, the trial court stated that it would take judicial notice of all prior hearings in which the former caseworkers testified. Child protection proceedings are considered a single, continuous proceeding. As a result, evidence and testimony received at prior hearings may be considered at a subsequent hearing. *In re LaFlure*, 48 Mich App 377, 391; 210 NW2d 482 (1973).

In light of these procedural protections, the trial court's refusal to subpoena each of the former caseworkers did not deprive respondent of her right to due process. While respondent's interest in her parental rights is a compelling one, the procedural protections available in this case did not increase the risk of an erroneous deprivation of those rights. See *In re Vasquez, supra* at 47-48. Respondent has failed to demonstrate prejudice as a result of the trial court's decision not to produce the former caseworkers. See *id*. at 48. For these reasons, we reject this claim of error.

Next, the trial court did not clearly err in finding that §§ 19b(3)(c)(i), (g), and (j) were each established by clear and convincing evidence. See MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent's claim that she substantially complied with the

terms of her treatment plan is not supported by the record. Although respondent initially made some progress in addressing her treatment goals, she admitted that she stopped working on her treatment plan once the children were placed with their father in 2002. At the time of the termination hearing, it was clear that respondent had not substantially complied with the treatment plan requirements. A parent's failure to comply with a parent-agency agreement is evidence of the parent's failure to provide proper care and custody of the children. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Because respondent failed to address and correct the problems that led to the children's removal, termination of her parental rights was appropriate under § 19b(3)(c)(i). Moreover, her failure to correct these problems also supported termination under §§ 19b(3)(g) and (j).

Furthermore, the trial court also terminated respondent's parental rights under § 19b(3)(l). Respondent admitted that her parental rights to an older child were previously terminated. On appeal, respondent has not addressed the trial court's decision with respect to this statutory ground. This additional statutory ground is alone sufficient to support the trial court's termination order.

Lastly, a review of the entire record fails to disclose that termination of respondent's parental rights was clearly not in the children's best interests. See MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children's grandfather testified that the children had made much progress since their removal from their parents' custody, and they were receiving the structure and stability that neither had received in the past.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Karen M. Fort Hood