

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ZITIVON HUGHES, ZIMORIEN
HUGHES, ZACCHEUS GRANT, and ZSILAS
HUGHES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellant,

v

ANGELA GRANT,

Respondent-Appellee,

and

MICHAEL WILLIAMS,

Respondent.

UNPUBLISHED
February 15, 2005

No. 256708
Genesee Circuit Court
Family Division
LC No. 04-118179-NA

Before: Jansen, P.J., and Murray and Donofrio, JJ.

PER CURIAM.

Petitioner appeals by leave granted from the order dismissing its petition seeking temporary custody of the minor children. We affirm.

The petition alleged that the children came within the jurisdiction of the court under MCL 712A.2(b)(1), because they were without proper adult supervision when respondent was arrested for a domestic dispute. The petition further alleged that respondent had a history of unstable housing. Following a preliminary hearing, the petition was authorized and a pretrial was scheduled. At the pretrial hearing, respondent moved to dismiss the petition and have the children returned to respondent. Respondent's attorney indicated that the charges against respondent were about to be dismissed and that respondent planned to move to Mississippi with the help of her family. The trial court inquired about respondent's plans to move to Mississippi and adjourned the hearing for her to provide verification of housing and employment in Mississippi. When the matter reconvened, respondent presented documentary proof and testimony of housing and employment. The trial court dismissed the case, indicating that even if the allegations in the petition were true, there was no need for the court to intervene further and

continue the proceedings. The trial court commented that the children were adequately protected when respondent was arrested and no further intervention was necessary.

Petitioner argues that the trial court violated constitutional principles of separation of powers in dismissing the petition over the objection of the prosecutor, who represented the Family Independence Agency in the matter. We disagree. It is well established that child protection proceedings are not criminal proceedings. *In re Brock*, 442 Mich 101, 107; 499 NW2d 752 (1993). The “juvenile code is intended to protect children from unfit homes rather than to punish their parents.” *Id.* at 108. Therefore, despite petitioner’s argument to the contrary, the prosecutor’s role as “a legal consultant” to the Family Independence Agency in child protective proceedings, MCR 3.914(C)(1), is not analogous to the responsibilities of the prosecutor as a constitutional officer in a criminal proceeding.

Petitioner additionally asserts that the trial court improperly granted summary disposition or involuntary dismissal in a child protection proceeding. It is clear that a trial court may not grant summary disposition in child protective proceedings. *In re PAP*, 247 Mich App 148, 153-154; 640 NW2d 880 (2001). However, under the court rules and the Juvenile Code, the trial court clearly has the authority to dismiss petitions at all stages of the proceedings, including the preliminary proceedings. MCR 3.965(B)(4) provides that, during a preliminary hearing, “[t]he court shall determine if the petition should be dismissed or the matter referred to alternate services.” The court rule further states that “[i]f the court so determines the court must release the child.” MCR 3.965(B)(4). Although not explicit from the trial court’s ruling, the trial court certainly had the authority to dismiss the petition during the preliminary proceedings. Moreover, it is clear that at any time during the proceedings, a challenge to the court’s subject matter jurisdiction may be raised. *In re Hatcher*, 443 Mich 426, 436; 505 NW2d 834 (1993).

Petitioner also argues that the trial court could have invoked the Interstate Compact on the Placement of Children (ICPC), MCL 3.711, to allow the children to be moved across state lines and ensure their safety. However, petitioner cites no controlling provision of the ICPC and does not assert that the trial court was required to proceed under its provisions. A party may not simply “announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.” *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998); *Conlin v Scio Twp*, 262 Mich App 379, 384; 686 NW2d 16 (2004). Therefore, we decline to address this issue.

Finally, petitioner argues that the trial court’s refusal to consider the amended petition denied petitioner its right to amend the petition. We disagree. MCL 712A.11(6) provides, in relevant part, that a “petition ... may be amended at any stage of the proceedings as the ends of justice require.” MCL 712A.11(6). Where statutory language is clear and unambiguous, judicial construction is precluded. *People v Hock Shop, Inc*, 261 Mich App 521, 524; 681 NW2d 669 (2004). Clearly, the statute does not require the trial court to amend the petition, and it is implicit in the trial court’s ruling that it did not find that the ends of justice required the amendment under the circumstances of this case.

Affirmed.

/s/ Kathleen Jansen
/s/ Christopher M. Murray
/s/ Pat M. Donofrio