

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of FANTISHYA HOLMES,
DOMINIQUE NASHAY HOLMES,
ROOSEVELT DEONTYE HOMES, ADRIAN
DARNELL HOLMES, and BREONNAH
DESIREE HOLMES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

UNPUBLISHED
February 17, 2005

v

LARRY MITCHELL,

Respondent-Appellant.

No. 256214
Oakland Circuit Court
Family Division
LC No. 02-673505

Before: Kelly, P.J., and Saad and Smolenski, JJ.

MEMORANDUM.

Respondent appeals as of right from the order of the trial court terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii). We affirm.

Respondent first contends that the trial court erred in admitting into evidence, pursuant to MCR 3.972, statements by one of the children regarding sexual abuse by respondent. We disagree. The record demonstrates that the child was under the age of eighteen, the child had a developmental disability, the statements described sexual abuse, and the circumstances surrounding the statements provided adequate indicia of trustworthiness as contemplated by MCR 3.972.

Respondent also contends that the trial court erred by terminating his parental rights on a supplemental petition without first entering adjudicative and dispositional orders on the initial petition. Again, we disagree. The trial court was not required to enter a dispositional order on the initial petition but was permitted to take action on the supplemental petition pursuant to MCR 3.977(F). The trial court had previously assumed jurisdiction of the children after adjudicating the rights of the children's mother before the trial court. The trial court could then proceed to the dispositional stage of the proceedings with respect to the new allegations against respondent in the supplemental petition so long as the trial court applied the stricter evidentiary standard of the adjudicative stage, which it properly did in this case. *In re CR*, 250 Mich App 185, 202-203; 646 NW2d 506 (2002).

We also reject respondent's contention that the trial court abused its discretion in denying his request for adjournment and proceeding with a hearing in his absence where respondent failed, without explanation, to appear for the hearing. In a child protective proceeding, the trial court may proceed without a respondent provided the proper notice is given. See MCR 3.972(B) and MCR 3.973(D). In this case, respondent never presented the trial court with a valid reason for his absence, he was represented by counsel at the hearing, there is no indication that he claimed lack of notice before the trial court, he had been present at the previous hearing when the hearing date in question was set, and the proceedings that transpired in respondent's absence appear to have been unaffected by his absence. The trial court did not abuse its discretion in denying respondent's request for adjournment.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Henry William Saad
/s/ Michael R. Smolenski