

STATE OF MICHIGAN
COURT OF APPEALS

In re Carshena Barker, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

ILOMA RADNEY,

Respondent-Appellant,

and

FAMILY INDEPENDENCE AGENCY,

Appellant.

UNPUBLISHED

April 21, 2000

No. 212954

Wayne Circuit Court

Family Division

LC No. 96-344859

Before: Gribbs, P.J., and Doctoroff and T.L. Ludington*, JJ.

PER CURIAM.

Appellant Iloa Radney (“appellant”) appeals as of right from the trial court’s order holding her in contempt of court. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Appellant, an employee of the Family Independence Agency (FIA), was at all relevant times the supervisor on the underlying child protection case involving Carshena Barker. The referee assigned to the case filed a motion to show cause why appellant should not be found in contempt of court for failing to comply with court orders and failing to supervise workers assigned to the case. The motion stated that appellant failed to take steps to make Carshena’s placement with her aunt legal, even though she

* Circuit judge, sitting on the Court of Appeals by assignment.

was repeatedly asked to do so, and failed to insure that workers assigned to the case appeared in court when scheduled to do so.

At a hearing on the motion, counsel for the FIA and appellant conceded that workers had not appeared at scheduled hearings, but noted that the hearings had been completed shortly thereafter. Counsel emphasized that a petition to allow Carshena's aunt to obtain permanent custody had been filed and would be addressed shortly. Thereafter, the FIA would be authorized to provide more services for Carshena. The court focused its analysis not on the lack of provision of services, but rather on the disruption of the proceedings caused by the failure of workers to appear at scheduled hearings. The court found appellant in civil contempt, and fined her \$200.

Contempt is a willful act, omission, or statement that impairs the authority or impedes the functioning of a court. A court has both inherent and statutory authority to punish contempt. MCL 600.1701 *et seq.*; MSA 27A.1701 *et seq.* When contempt is committed in the immediate view and presence of the court, the court may punish it summarily. Under such circumstances, all facts necessary to find contempt are within the personal knowledge of the court. Punishment for contempt committed outside the presence of the court can be imposed only after proof of the facts charged are made by affidavit or otherwise, and an opportunity has been given to defend. Under these circumstances, the accused must be advised of the charges, afforded a hearing, and given an opportunity to meet the charges. *In re Contempt of Robertson*, 209 Mich App 433, 436-438; 531 NW2d 763 (1995). The issuance of an order of contempt is within the discretion of the trial court. Absent an abuse of discretion, a trial court's decision will not be disturbed on appeal. *Schoensee v Bennett*, 228 Mich App 305, 316; 577 NW2d 915 (1998).

We affirm the trial court's finding of contempt. Appellant was the supervisor of the underlying child protection case, and as such was responsible for insuring that a worker was assigned to the case at all times and that the case was moving forward. In spite of repeated requests from the referee, appellant took no steps to formalize Carshena's placement with her aunt for more than one year. During that time, two regularly scheduled hearings were adjourned because the worker assigned to the case did not appear in court. Appellant does not deny that she had the responsibility of insuring that a case worker attended every regularly scheduled hearing. Appellant's assertion that the court did not incur additional costs because the two hearings were adjourned is unsubstantiated.

Contrary to appellant's assertion, the trial court found her in civil contempt. She was advised of the charges against her, was afforded a hearing, and had the opportunity to respond to the charges, as required. *Robertson, supra*. The fine imposed, \$200, constituted compensation for a portion of the expenses incurred as a result of appellant's continuing failure to properly supervise the case. Under the circumstances, the trial court did not abuse its discretion by holding appellant in contempt. *Schoensee, supra*.

Affirmed.

/s/ Roman S. Gibbs
/s/ Martin M. Doctoroff
/s/ Thomas L. Ludington