

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MAURICE MURRAY,
JERMAINE STANLEY MURRAY,
KIANAN MELANA MURRAY, and
JUWAN PERRY HORACE, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

UNPUBLISHED
January 20, 2005

v

No. 256460
Wayne Circuit Court
Family Division
LC No. 86-255317

WALLACE LEE HORACE,

Respondent-Appellant,

and

ARLENE MURRAY, MILFORD B.
CUNNINGHAM, JR., and DAVID COOK,

Respondents.

Before: Hoekstra, P.J., and Cavanagh and Borrello, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to his minor child, Juwan Perry Horace, under MCL 712A.19b(3)(b)(i), (g), (j), (k)(v), and (l). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, respondent-appellant argues that the trial court erred by denying his request for an adjournment of the permanent custody hearing until the resolution of the criminal charges against him, which arose from some of the same facts contained in the petition seeking permanent custody. Respondent-appellant claims that the denial of the adjournment forced him to refuse to testify under the Fifth Amendment to the United

States Constitution, US Const, Am V, and prevented him from defending against the allegations in the petition.

We review a trial court's decision on a motion for an adjournment for an abuse of discretion. *People v Snider*, 239 Mich App 393, 421; 608 NW2d 502 (2000). We find no abuse of discretion in the trial court's decision. Due to the similarity of the issues in the child protective proceeding and the criminal proceeding, any testimony that would have helped respondent-appellant to defend against the allegations in the petition would not have been incriminating in the criminal proceeding. *In re Stricklin*, 148 Mich App 659, 664-665; 384 NW2d 833 (1986). Such nonincriminating testimony is not protected by the Fifth Amendment. *Id.* Any testimony that would have incriminated respondent-appellant would not have helped him to defend against the allegations in the petition. *Id.* Thus, good cause for the adjournment did not exist. MCR 3.923(G). Furthermore, the requested adjournment would have been lengthy and contrary to the child's best interests. *Id.*

Affirmed.

/s/ Joel P. Hoekstra
/s/ Mark J. Cavanagh
/s/ Stephen L. Borrello