

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NICOLE HARRINGTON,
WALTER HARRINGTON, AMBER
HARRINGTON, and KAITLAN HARRINGTON,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

WALTER HARRINGTON,

Respondent-Appellant.

UNPUBLISHED
May 17, 2005

No. 259118
Antrim Circuit Court
Family Division
LC No. 03-002641-NA

Before: Murphy, P.J., and White and Smolenski, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating his parental rights to the minor children under MCL 712A.19b(3)(k)(ii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(A) and (E).

On appeal, respondent contends that the trial court erred when it admitted his taped statement into evidence. Respondent argues that the trial court violated his due process rights because it failed to determine whether his confession was fair, reliable, and trustworthy. We disagree.

At trial, respondent objected to the admission of the taped confession on the basis that the police officer could not recite from memory the *Miranda*¹ warnings that were given to respondent. An objection to evidence based on one ground is usually considered insufficient to preserve an appellate attack based on a different ground. *People v Kimble*, 470 Mich 305, 309; 684 NW2d 669 (2004). This Court reviews unpreserved constitutional claims for plain error affecting substantial rights. *People v Carines*, 460 Mich 750, 764-765; 597 NW2d 130 (1999).

¹ *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

We find that no error occurred. First, even if respondent's statement had been taken without benefit of *Miranda* warnings, it would not be barred from evidence in this civil proceeding on that basis. *Birdsey v Grand Blanc Community Schools*, 130 Mich App 718, 722; 344 NW2d 342 (1983); see also MCR 3.977(G)(2). Second, respondent's taped statement was admitted in his criminal trial. Any issue whether respondent had been properly given his *Miranda* warnings or whether his statement was voluntary was or could have been resolved in his criminal trial. Accordingly, respondent was barred by the doctrine of res judicata from raising this issue in his termination trial. *Andrews v Donnelly (After Remand)*, 220 Mich App 206, 209; 559 NW2d 68 (1996). Moreover, respondent fails to provide authority in support of the proposition that a court, in the context of child protective proceedings, must engage sua sponte in a due process analysis when confronted with a statement made by a respondent to police. Furthermore, respondent fails to meaningfully explain or argue in his appellate brief how the taped confession was unfair, unreliable, and untrustworthy. Respondent took advantage of the opportunity at trial to testify with respect to asserted improprieties regarding the confession, and his testimony was rejected. We find no due process violation.

Affirmed.

/s/ William B. Murphy
/s/ Helene N. White
/s/ Michael R. Smolenski