

COA Opinion: Court affirms termination of parental rights

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In *In re Vandalen*, Nos. 301126, 301126, the Michigan Court of Appeals affirmed an order terminating respondents' parental rights to two minor children. The Court rejected a challenge to the sufficiency of the evidence, and two due process challenges. The children were diagnosed with multiple serious injuries, including brain damage and bone fractures, which were consistent with physical abuse and neglect. Respondents claimed to have no knowledge of how the injuries were sustained.

Respondents contended that they were denied procedural due process when the trial court refused to instruct the jury that they must reach a consensus on which specific statutory grounds supported jurisdiction. The Court of Appeals held that there is no such requirement; Michigan law requires only that at least five members of the jury agree that "one or more of the statutory grounds alleged in the petition had been proven." Furthermore, the jury in this case unanimously agreed that the court had jurisdiction under all three asserted statutory grounds, and therefore the respondents suffered no prejudice from the court's instructions.

Respondents claimed a second violation of procedural due process when the trial court obtained evidence after the conclusion of the hearing, without imput from the parties. The Court of Appeals found that this did not constitute a violation of due process, as the trial court had adequately notified the parties that it was seeking the evidence and had permitted respondents to review and respond to the evidence.

Additionally, the Court of Appeals rejected respondents' contention that the trial court did not establish by clear and convincing evidence a statutory grounds for termination. Despite the fact that there was no direct evidence implicating respondents in the abuse, the facts of the case were "eminently clear." The Court of Appeals found that the circumstantial evidence left no room for doubt that there was a reasonable likelihood of harm if the children returned to respondents' home and that respondents could not reasonably be expected to provide the children with proper care.