

Supreme Court of Florida

FRIDAY, JUNE 30, 2006

CASE NO.: SC06-240

Lower Tribunal No.: 3D05-1565

F.G., ET AL.

vs. AGENCY FOR PERSONS
WITH DISABILITIES

Petitioner(s)

Respondent(s)

F.G., a dependent child, seeks review of the decision of the Third District Court of Appeal, which granted a writ of prohibition restraining the circuit court from issuing a subpoena duces tecum to officers from the Agency For Persons With Disabilities. Agency For Persons With Disabilities v. F.G., 917 So. 2d 887, 888 (Fla. 3d DCA 2005). For the reasons below, we quash the Third District’s decision. An opinion will follow, but we issue this order now because this issue involves a child and the proceedings should be expedited. See Fla. R. App. P. 9.146(g).

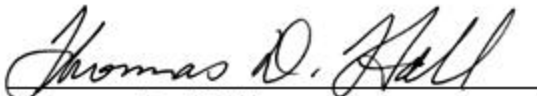
The subpoena, which was addressed to “Evelyn Alvarez, Orlando Garcia, Joseph Perry . . . or other designated person(s),” requested “[a]ll records and reports concerning [F.G.], in reference to his status with [the Medicaid waiver program] and services rendered or why this child is not receiving services.” The Third District held that “[t]he . . . court lacks constitutional or statutory authority” to issue this subpoena. F.G., 917 So. 2d at 888 (citations omitted). However, a circuit court judge has the authority to subpoena witnesses, including representatives of government agencies, for documents and testimony. See § 39.502(11), Fla. Stat. (2005) (“[T]he court on its own motion may issue[] subpoenas requiring attendance and testimony of witnesses and production of records, documents, and other tangible objects at any hearing.”); Fla. R. Juv. P. 8.225(2) (“Subpoenas for testimony before the court, for production of tangible evidence . . . shall be issued

by . . . the court on its own motion . . .”). Thus, the judge in this case has the authority to subpoena duces tecum these officers to testify and/or produce any and all records and reports related to F.G.’s status with the Medicaid waiver program and services rendered. Because the subpoena itself does not require the production of documents or testimony that could even arguably be impermissible, we do not address any hypothetical requests or orders that may violate separation of powers principles. We therefore quash the Third District’s opinion and remand for further proceedings. No motion for rehearing will be allowed.

It is so ordered.

PARIENTE, C.J., and WELLS, ANSTEAD, LEWIS, QUINCE, CANTERO and BELL, JJ., concur.

A True Copy
Test:


Thomas D. Hall
Clerk, Supreme Court



tc
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