STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of SHANE ALLEN MASTERTON, DENNIS ALLEN MASTERTON and TANYA MARIE MASTERTON, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DEBORAH MASTERTON,

Respondent-Appellant,

and

TIMOTHY MEACHUM, WALTER NOWAK and SHANE MCGUFFEY,

Respondents.

UNPUBLISHED
December 1, 2000

No. 223502
Wayne Juvenile Court
LC No. 91-293424

Before: Zahra, P.J., and Hood and McDonald, JJ.

PER CURIAM.

Respondent-appellant, Deborah Masterton, appeals as of right from an order terminating her parental rights to the three minor children pursuant to MCL 712A.19b(3)(c)(*i*), (g) and (j); MSA 27.3178(598.19b)(3)(c)(*i*), (g) and (j). Respondent-appellant's parental rights to Tanya were also terminated pursuant to MCL 712A.19b(3)(a)(*ii*) and (b)(*ii*); MSA 27.3178(598.19b)(3)(a)(*ii*) and (b)(*ii*). We affirm.

Respondent-appellant first argues that the trial court erred in denying her motion to adjourn the termination hearing. We review a trial court's decision on a motion for a continuance for an abuse of discretion. *In re Jackson*, 199 Mich App 22, 28; 501 NW2d 182 (1993). The burden of proof is on the party asserting an abuse of discretion. *Id.*

While it is apparent that respondent-appellant experienced some discomfort during the hearing due to a recurring medical condition, respondent-appellant has failed to show that the

trial court's decision not to adjourn the matter rose to the level of an abuse of discretion. Insofar as respondent-appellant suggests that her medical condition affected her decision not to testify at the hearing, that claim is not supported by the record. It is apparent that respondent-appellant did not testify because she was concerned that her testimony may be introduced in a subsequent criminal proceeding. Moreover, respondent-appellant first indicated her desire to retain a new attorney at the close of petitioner's proofs. Given that late stage of the proceeding and given that respondent-appellant did not indicate that her current counsel was deficient in any respect, the trial court acted within its discretion in denying the motion for adjournment.

Respondent-appellant next argues that the trial court clearly erred in terminating her parental rights to the minor children. The children were made temporary wards upon evidence that respondent-appellant used drugs, involved the children in shoplifting, hid the children from protective services, kept the children out of school for a significant period, failed to provide a suitable home and maintain a legal source of income, and failed to take action to protect Tanya from sexual abuse. Respondent-appellant's parent/agency treatment plan required that she undergo substance abuse treatment and remain drug free, complete parenting classes, domestic violence counseling, family and individual counseling, and secure suitable housing and a legal source of income. Respondent-appellant failed to meet any of those goals. While the evidence suggests that she took part in most visits with Shane and Dennis and complied with required drug screens in 1998, she submitted only two drug screens in 1999 and did not complete any substance abuse program, parenting class, or counseling program. It is apparent that respondent-appellant had not secured suitable housing and there was no evidence that she was employed during 1999. There was also evidence that, despite being informed that her boyfriend was sexually abusing Tanya, respondent-appellant did not make any effort to protect Tanya from further abuse or to help locate Tanya when Tanya was missing for ten months.

Given these circumstances, we conclude that the trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 5.974(I); *In re Cornet*, 422 Mich 274, 277; 373 NW2d 536 (1985). There was substantial evidence that the conditions leading to adjudication continued to exist, that respondent-appellant could not provide proper care and custody within a reasonable time considering the children's ages, and that there was a reasonable likelihood the children would be harmed if returned to respondent-appellant's care. Furthermore, there is not clear evidence, on the whole record, that termination was not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341, 354, 364-365; 612 NW2d 407 (2000).

Affirmed.

/s/ Brian K. Zahra
/s/ Harold Hood
/s/ Gary R. McDonald