

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DUSTIN MILES MCCLAIN,
Minor.

JOSEPH MCDONALD and TINA MCDONALD,

Petitioners-Appellees,

v

CHRISTINA MARIE THURSTON, a/k/a
CHRISTINA WOODMAN,

Respondent-Appellant,

and

JOSEPH IAN MCCLAIN,

Respondent.

UNPUBLISHED
November 29, 2005

No. 262760
Oakland Circuit Court
Family Division
LC No. 02-668778-NA

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(e) and (f). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

We find no merit to respondent's argument that she was denied due process because the trial court improperly shifted the burden of proof. Respondent correctly states that petitioner had the burden of proving a statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). Viewed as a whole, the trial court's decision discloses that the court was aware of the correct legal standard and properly applied it. We also find no merit to respondent's argument that she was denied due process because she was faulted for missing visitation that was arguably precluded by court order. The trial court considered that HAVEN refused to continue supervising respondent's parenting time because she failed to appear for scheduled visits. The court properly considered that respondent failed to avail herself of visitation when it was offered.

Next, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The record amply establishes that respondent failed to comply with the goals of the court-structured plan. Respondent failed to visit her child when visitation was offered. Further, she failed to contact or communicate with her child through other means such as telephone calls and written correspondence. During a four-year period, respondent sent gifts to her child on only one occasion. Respondent did not contribute to her child's support, nor did she plan for her child's return. There was clear and convincing evidence to support termination of respondent's parental rights under §§ 19b(3)(e) and (f).

We also find no clear error with the trial court's conclusion that termination of respondent's parental rights would not be contrary to the child's best interests. Respondent's child has special needs related to his attention deficit hyperactivity disorder, learning disability, sensory and depth perception deficiencies, and possible autism. The child requires a stable and permanent environment that will ensure that he receives the care required to grow and develop. Under these circumstances, the court did not clearly err in determining that termination of respondent's parental rights was not contrary to the child's best interest. MCL 712A.19b(5); *In re Trejo, supra*.

Affirmed.

/s/ Michael R. Smolenski

/s/ Bill Schuette

/s/ Stephen L. Borrello