

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SEAN LUKE TUCKER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STEPHANIE TUCKER,

Respondent-Appellant.

UNPUBLISHED

November 20, 2008

No. 285268

Macomb Circuit Court

Family Division

LC No. 2007-000006-NA

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

MEMORANDUM.

Respondent appeals as of right from an order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989). The child was made a temporary ward after respondent pleaded no contest to the amended petition. The petition's allegations concerned respondent's failure to protect the child from her boyfriend's criminal activity, including a drug arrest and an instance of domestic violence. Respondent was ordered to undergo a CARE assessment, attend Al-Anon, complete a psychological evaluation, and attend parenting classes. Though the boyfriend was offered a treatment plan, respondent testified that she asked him not to participate. By the time of the termination hearing, respondent was in compliance with her treatment plan, but she had taken up with her boyfriend once again. The progress respondent had made was called into question now that she was back with her abuser. Because the boyfriend had not been involved with petitioner, there was no way for the agency to actually monitor his progress. Essentially, the parties were back to where they were at the beginning of this case.

There was also evidence that respondent could not properly parent the child. A psychological evaluation revealed that respondent was not within normal limits for understanding the basic developmental needs of a child. In addition, her interest in the child began to wane throughout the proceedings and she stopped visiting with him. Respondent argues that the failure to visit was the result of allowing the child, who was 13 years old, to decide whether he wanted to see her. However, respondent testified that she was free to visit the child at his uncle's house at any time the uncle was there to supervise. She did not do so because

she and the uncle did not get along. The worker testified, “I believe that over all the mom lacks an appropriate interest, lacks the normal parental affection or sentiment for the youth. I believe that she’s not benefited from a good portion of the parent agency agreement. I don’t believe that she has the insight to manage Sean or an adolescent’s behaviors. She’s not able to communicate with him, doesn’t seem to have an interest in the things that interest him.”

The trial court also did not clearly err in concluding that the child’s best interests did not preclude termination of respondent’s parental rights. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). As discussed above, respondent did not appear to have the ability to care for the child. In addition, although respondent showed a desire to enter into family therapy, the expert concluded that such therapy would not benefit the child and would not restore their relationship. The child was entitled to permanence and stability.

Affirmed.

/s/ William B. Murphy
/s/ David H. Sawyer
/s/ Michael R. Smolenski