

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TYRIE PRICE, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHIRLEY MURPHY,

Respondent-Appellant,

and

TYRIE PRICE, a/k/a IRISKA PRICE,

Respondent.

In the Matter of TYRIE PRICE, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TYRIE PRICE, a/k/a IRISKA PRICE,

Respondent-Appellant,

and

SHIRLEY MURPHY,

Respondent.

Before: Whitbeck, P.J., and O'Connell and Owens, JJ.

UNPUBLISHED
February 26, 2009

No. 287072
Macomb Circuit Court
Family Division
LC No. 2008-000340-NA

No. 287073
Macomb Circuit Court
Family Division
LC No. 2008-000340-NA

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor child under MCL 712A.19b(3)(g) and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of respondents' parental rights were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(J).

Respondent mother's parental rights to her two older children were terminated the year before Tyrie's birth, and respondent mother still had not addressed her substance abuse or mental health issues. She was not concerned about the effect her use of marijuana during her pregnancies had on her children, and both her second child, Alysia, and Tyrie were born testing positive for illegal substances. She refused to accept that she was bipolar or to take medication to treat this illness, although she applied for Social Security disability benefits based on this diagnosis. Respondent mother's substance abuse issues and mental health issues prevented her from providing proper care and custody for Tyrie, and she was unlikely to be able to provide proper care and custody within a reasonable time given that she had made no improvements in the year since she lost her parental rights to Alysia, and Tyrie was born testing positive for marijuana. Moreover, Tyrie was a newborn, and respondent mother's substance abuse and untreated mental health issues would pose a serious threat to his well being if he were placed in her home.

With regard to respondent father, his parental rights to Alysia were also terminated. During those proceedings, he was given the opportunity to complete a treatment plan and gain custody of his daughter. He knew at the time that contact with respondent mother would negatively affect his chances of gaining custody of Alysia, yet respondent father could not and did not stay away from respondent mother, as evidenced by the conception and birth of his child, Tyrie. Respondent father's trial testimony that he had seen respondent mother only a handful of times since Tyrie's birth was belied by the protective services worker's testimony that respondent mother reported that she had lived with respondent father for the past year, that respondent mother used his address as her mailing address, and that respondent mother called the worker from respondent father's telephone. It is clear that respondent father cannot be trusted to discontinue his relationship with respondent mother, despite his testimony to the contrary and despite the significance to his children. Because of the danger respondent mother poses to Tyrie, the trial court did not clearly err in finding that respondent father did not provide proper care and custody for Tyrie and could not do so within a reasonable time and in finding that, based on respondent father's conduct, there was a reasonable likelihood that Tyrie would be harmed if placed in respondent father's home.

The trial court also did not clearly err in finding that termination of both respondents' parental rights was in Tyrie's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. Tyrie was hospitalized following his premature birth and was never released to respondent mother. Although respondent mother may have visited him in the hospital before the petition to terminate parental rights was filed, she had not had visitation with Tyrie in at least six months. Respondent mother had substance abuse and mental health issues that were not likely to be resolved within a

reasonable time, and the foster care worker and protective services worker each expressed grave concerns for Tyrie if he were ever returned to respondent mother's care. Respondent father failed to excise himself from a relationship with respondent mother. Further, respondent father's argument that he could not have shown any best interests evidence because the trial court relied on his previous termination is without merit where the trial court also relied on recent evidence of respondent father's contact with respondent mother.

Finally, respondent mother argues that the trial court erred in terminating her parental rights because petitioner did not make reasonable efforts at reunification. MCL 712A.19b(4) provides that the trial court may enter an order terminating parental rights at the initial disposition hearing if a petition to terminate parental rights is filed. Here, petitioner properly filed an initial petition to terminate parental rights and established by clear and convincing evidence the statutory bases for termination, and the trial court properly terminated respondent mother's parental rights. No reasonable efforts were required.

Affirmed.

/s/ William C. Whitbeck
/s/ Peter D. O'Connell
/s/ Donald S. Owens