

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LAURENCE MITCHELL
TILLEY, Minor.

BONNIE TILLEY,

Petitioner-Appellee,

v

BRIAN SUTHERLAND,

Respondent-Appellant.

UNPUBLISHED

January 13, 2004

No. 249164

Barry Circuit Court

Family Division

LC No. 2003-002743-RB

Before: Donofrio, P.J., and Griffin and Jansen, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 710.39(1). Because respondent never established a custodial, personal, or financial relationship with the child, and because respondent failed to request custody at the adoption/ termination of parental rights hearing, we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

On appeal, respondent argues that the trial court erred in terminating his parental rights because his request for a DNA test at the April 9, 2003, hearing was really a request for custody. We disagree. Under MCL 710.31(1), when a child is born out of wedlock, a trial court cannot approve a petition for adoption without first terminating the parental rights of the biological father pursuant to either MCL 710.37 or MCL 710.39. *In re TMK*, 242 Mich App 302, 304; 617 NW2d 925 (2000). In such a case, the putative father must either request custody, MCL 710.39(1), or deny his interest in custody, MCL 710.37(1). *Id.*, at 305. In order to properly object to the termination of parental rights, MCL 710.39(1) required respondent to request custody. *Id.* Respondent's failure to request custody "was therefore tantamount to a denial of interest in custody and permitted the trial court to terminate his parental rights" under MCL 710.37(1)(d) (father appears and denies custody). *Id.* Accordingly, the trial court did not err in terminating respondent's parental rights.

Respondent also argues that he was denied equal protection of the law when the trial court required him to request custody of the minor child at the hearing. However, respondent cites no authority to support his assertion that requiring a putative father to request custody is a

denial of equal protection. Respondent may not leave it to this Court to search for authority to sustain or reject his position. *Staff v Johnson*, 242 Mich App 521, 529; 610 NW2d 57 (2000). In any event, this Court in *In re RFF*, 242 Mich App 188, 209; 617 NW2d 745 (2000), concluded that termination of respondent's parental rights pursuant to MCL 710.39(1), which requires respondent to request custody of the child, was not a violation of a putative father's equal protection rights.

Respondent further argues that he was denied equal protection by petitioner's refusal of respondent's repeated offers of support, which caused his rights to be considered under subsection 39(1), instead of subsection 39(2). However, a review of the record reveals that respondent did not make repeated offers of support or that petitioner made any attempt to thwart respondent's involvement in her pregnancy or the child's life. Accordingly, the trial court's order terminating respondent's parental rights did not deny respondent his equal protection rights.

Affirmed.

/s/ Pat M. Donofrio
/s/ Richard A. Griffin
/s/ Kathleen Jansen