

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MERCEDES CHRISTINE
PENDERGRASS, SAMUEL ALLEN
PENDERGRASS, and KATHLEEN ROSE ANN
MORGAN, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NICHOLE BAUMGART,

Respondent-Appellant,

and

JOSEPH MORGAN,

Respondent.

UNPUBLISHED
August 26, 2003

No. 246318
Ingham Circuit Court
Family Division
LC No. 00-047533-NA

Before: Markey, P.J., and Cavanagh and Saad, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (c)(i), (g), and (j). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I), now MCR 5.977(J); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). By failing to comply with the case service plan, respondent-appellant failed to address the problems that prevented her from providing proper care for her children. Specifically, respondent-appellant married Scott Baumgart during the pendency of the proceedings in spite of the court order that she not allow Baumgart in the home when the children were present and not allow Baumgart to have any contact with the children. Her relationship with Baumgart led to adjudication, and evidence was presented that he physically abused respondent-appellant's son. Respondent-appellant also

failed to substantially comply with the trial court's order that she regularly attend, participate in and benefit from individual and/or family counseling, regularly attend and participate in all parenting classes as directed by the foster care worker, and participate in and benefit from domestic violence counseling. Furthermore, in light of the fact that she and Baumgart resided in the same home, she failed to establish and maintain a suitable home for her three children.

Finally, although respondent-appellant challenged the trial court's termination based on her daughter's allegations of sexual abuse on due process grounds, the error, if any, was harmless as there were other grounds on which termination could be based. See *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Thus, the trial court did not clearly err in terminating respondent-appellant's parental rights to her three children.

Affirmed.

/s/ Jane E. Markey
/s/ Mark J. Cavanagh
/s/ Henry William Saad