

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DIAMOND ENRIQUA
O'BANION, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KIMBERLY MONIQUE O'BANION,

Respondent-Appellant,

and

ENRIQUE ARTURO GOMEZ,

Respondent.

UNPUBLISHED
September 16, 2003

No. 244574
Wayne Circuit Court
Family Division
LC No. 91-291690

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

MEMORANDUM.

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

We find that the trial court did not clearly err in determining the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I), now MCR 3.977(J); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The child was removed from respondent-appellant's home following a severe beating administered by respondent-appellant and her live-in partner. Various reasons were given for the beating, such as the 6½-year-old had lied and not told her mother about a sexual assault, and the child had "done the men at school." Previously, respondent-appellant's parental rights were terminated to two older children because of neglect. Respondent-appellant had not visited, contacted, inquired about, or sent gifts or mail to these children for over two years after the filing of the petition in that case.

The record contained clear and convincing evidence to support the trial court's findings on each of the grounds for termination of parental rights. The beating administered to the young

girl satisfied the definition of "abuse" in MCL 712A.13a(15)(a). Respondent-appellant did not take advantage of any of the services or referrals offered by Family Independence Agency to improve her parenting skills or deal with her problems. There was no evidence she felt remorse for her actions or was motivated to change.

Further, the evidence did not show the termination of respondent-appellant's parental rights was clearly not in the best interests of the child. MCL 712A.19b(5); *Trejo, supra* at 356-357. Diamond was clearly afraid of respondent-appellant and did not want to return home. The testimony of Diamond's therapist, Ms. Bird, as well as the FIA workers, police officer, and emergency room doctor all supported the trial court's finding that the child's best interests would not be served by returning her to respondent-appellant's care. The child needs a permanent, stable, and safe home, which respondent-appellant cannot provide. Because the evidence satisfied the statutory standards and we do not find clear error in the trial court's determination, we affirm.

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Kurtis T. Wilder