

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DAMIEN LEE PAUL, ANGELA
OKDIE, and BRITTANY SHEPARD, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

KIMBERLY SHEPARD,

Respondent-Appellant,

and

EDGAR PAUL and JOSEPH OKDIE,

Respondents.

UNPUBLISHED

October 14, 2003

No. 244502

Wayne Circuit Court

Family Division

LC No. 00-389334

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

PER CURIAM.

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

The trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I);¹ *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). One of the principal conditions that led to adjudication was that respondent-appellant and her boyfriend left her children alone in a motel room with suspected

¹ Effective May 1, 2003, the court rules governing juvenile proceedings were amended and moved to the new MCR subchapter 3.900. The provisions on termination of parental rights are now found in MCR 3.977. Specifically, the court rule governing the standard of review is found at MCR 3.977(J). In this opinion, we refer to the rules in effect at the time of the order terminating parental rights.

marijuana in plain view. Because the boyfriend presented a risk of harm to the children, he was an inappropriate partner for respondent-appellant. When she married him soon after adjudication, the court ordered him to participate in the parent/agency agreement at the initial dispositional hearing so he could assist respondent-appellant in proper parenting. The treatment plan included domestic violence counseling for both of them because of respondent-appellant's long history with abusive men.

Respondent-appellant objected to her husband's inclusion, because shortly after marrying him, she claimed she intended to divorce him, did not know where he was living, and was no longer involved with him. Respondent-appellant maintained this position for almost two years while the case proceeded. In addition, she participated in domestic violence counseling only sporadically, asserting that she did not need it. Eventually, however, it became evident that respondent-appellant continued to be involved with her husband, despite her denials. She suffered a serious assault at his hands and tried to lie to agency workers about the cause of her injuries. Only a few months after the domestic violence incident, she was photographed in the company of her husband. When respondent-appellant denied that she was with him but failed to produce the friend who was allegedly in the photo, the trial court terminated her parental rights. Respondent-appellant demonstrated that she was unable to disassociate herself from a man whose unsuitability vis-à-vis the children, as noted at adjudication, became even more apparent as the case progressed. Accordingly, the trial court did not err in finding that clear and convincing evidence supported termination under MCL 712A.19b(3)(c)(i).

The same evidence supported the trial court's conclusion that the children would be harmed if returned to respondent-appellant's care and that she would not be able to provide proper care and custody within a reasonable time considering the ages of the children. Respondent-appellant failed to genuinely engage in therapy to resolve her relationship issues. Her history with violent men demonstrated an unwillingness or inability to make the necessary growth to place her children's needs above her own and to provide a stable, non-violent home for them. Therefore the court did not err in finding that termination under both MCL 712A.19b(3)(g) and (j) was established by clear and convincing evidence.

Respondent-appellant also argues that the trial court violated her constitutional right to marry, as protected by the due Process Clause, by requiring her to divorce her husband in order to regain custody of her children. Respondent-appellant has abandoned this issue by failing to cite any authority in support of her position. *Sherman v Sea Ray Boats, Inc*, 251 Mich App 41, 57; 649 NW2d 783 (2002).

Even if the argument were properly raised, our review of the record reveals that it is without merit. As noted above, it was respondent-appellant who insisted on divorcing her husband, not the court. When the court included him in reunification plans by ordering him to participate in the parent/agency agreement, respondent-appellant objected and, instead, maintained throughout the proceedings that she wanted to terminate the marriage. The court merely sought proof that she carried out what she said she would do when it asked for copies of her divorce papers.

Finally, the evidence does not show that termination of respondent-appellant's parental rights was clearly not in the children's best interest. MCL 712A.19(b)(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to her children.

Affirmed.

/s/ Michael R. Smolenski

/s/ William B. Murphy

/s/ Kurtis T. Wilder