

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRANDON MITCHELL KOLC
and NOEL SAGE KOLC, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PAULA VIOLA SCHLEICHER,

Respondent-Appellant,

and

PHILLIP EUGENE KOLC, a/k/a PHILLIP
EUGENE KOLC, JR.,

Respondent.

UNPUBLISHED

January 25, 2002

No. 229572

Wayne Circuit Court

Family Division

LC No. 99-374917

Before: Hood, P.J., and Murphy and Markey, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(ii), (3)(c)(i), (3)(g), and (3)(j). We affirm.

Respondent's children were removed from her care when she reported that her oldest son sexually abused her nine-month old baby. Respondent allowed her oldest son to care for the baby despite the fact that she had suspected him of committing sexual abuse. Additionally, respondent took her four-year old child to work with her in lieu of leaving him in the care of her oldest son because the oldest son had physically harmed the child. The four-year old child suffered from severe behavior problems, including improper sexual conduct. Some evaluators concluded that this child had been exposed to inappropriate violent and sexual material and that his behavior was learned. The four-year old attempted suicide while in the care of his foster parents. While respondent alleged that the attempt evidenced the need to return the child to her home, some evaluators concluded that the attempt was the result of improper and inaccurate

information conveyed by respondent that the child would be returned to her home. The child's therapist recommended that he remain in foster care or be admitted for long-term hospitalization.

While respondent completed all necessary aspects of her parent/agency agreement, the trial court concluded that she had not benefited from the services provided. Respondent initially blamed her oldest son for the abuse, then blamed the children's father, then recanted any sexual abuse and alleged that any condition was caused by diaper rash. Lastly, respondent alleged that her oldest son admitted the sexual abuse. However, when interviewed by police, the oldest son expressly denied any admission. When her oldest son left a center without authorization, respondent allowed him to remain with her for three days.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 352; 612 NW2d 407 (2000). Respondent had the opportunity to prevent sexual and physical abuse of her two youngest children, but left the children in the care of the suspected abuser, her eldest child. There was no evidence that respondent could provide proper care and custody within a reasonable period of time considering the age of the children. Termination was required unless the court found that termination was clearly not in the child's best interests. *Id.* at 364-365. On this record, we cannot conclude that termination was clearly not in the children's best interests.

Affirmed.

/s/ Harold Hood
/s/ William B. Murphy
/s/ Jane E. Markey