

# Court of Appeals, State of Michigan

## ORDER

In re I Chadwell minor

Docket No. 303539

LC No. 10-126668-NA

Karen M. Fort Hood  
Presiding Judge

Joel P. Hoekstra

Patrick M. Meter  
Judges

On the Court's own motion, this case is REMANDED to the trial court to make a "judicial determination" to clarify the record as described below. Proceedings on remand are limited to this issue and shall be concluded within 28 days of the Clerk's certification of this order. The parties shall promptly file with this Court a copy of any papers filed on remand. Appellant shall file with this Court copies of the trial court's findings within seven days after entry. The transcript of any proceedings on remand shall be prepared and filed within 21 days after completion of the proceedings.

The primary issue in this case involves whether petitioner provided adequate services before termination of respondent's parental rights, taking into considering respondent's mental disabilities. See, e.g., *In re Terry*, 240 Mich App 14, 25-27; 610 NW2d 563 (2000). However, petitioner was not required to make any efforts toward reunification if there was a risk of harm to the child and if respondent voluntarily terminated her parental rights to another child after the initiation of child-protective proceedings that involved "[c]riminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate." See MCL 722.638(1)(b)(ii)(B); see also MCL 712A.19a(2)(a). This holds true even if respondent did not commit the sexual abuse herself but instead failed to protect the child. MCL 722.638(2). A prior case that led respondent to voluntarily terminate her parental rights to an older child involved an allegation of "molestation." We cannot conclusively determine from the record if this prior case involved "[c]riminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate," and we therefore REMAND this case to the trial court to make a "judicial determination" in that regard. See MCL 712A.19a(2)(a).

We retain jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

NOV 22 2011

Date

  
Chief Clerk