

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
June 5, 2012

In the Matter of I. CHADWELL, Minor.

No. 303539  
Genesee Circuit Court  
Family Division  
LC No. 10-126668-NA

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Before: FORT HOOD, P.J., and HOEKSTRA and METER, JJ.

PER CURIAM.

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

Respondent voluntarily released her parental rights to her two daughters in February 2008, after she unsuccessfully participated in parenting classes, "Family First," and Community Mental Health (CMH) services and a petition to terminate her parental rights was filed. After the birth of respondent's son, the child at issue in this appeal, in March 2010, a Children's Protective Services worker monitored respondent closely and filed a petition to terminate her parental rights in May 2010. Respondent was allowed supervised visitation and a psychological evaluation was ordered, but no other services were offered at this point. It was noted that petitioner was to comply with the Americans with Disability Act (ADA), 42 USC 12101 *et seq.*, in obtaining the psychological evaluation, because of respondent's cognitive limitations. In January 2011, petitioner was ordered to refer respondent to Consumer Services (an organization affiliated with CMH) for services to comply with the ADA and to submit the referral in writing. Respondent, who began receiving psychiatric medication and counseling services through CMH on her own in November 2010, began parenting classes and Dialectical Behavioral Therapy before the March 2011 termination hearing in which the trial court terminated her parental rights.

On appeal, respondent argues that the trial court improperly terminated her parental rights because petitioner did not make *reasonable* efforts at reunification and respondent requested accommodation under the ADA. When a child is removed from a parent's custody, petitioner is usually required to make reasonable efforts at reunification, and a failure to make these efforts may prevent petitioner from establishing the statutory grounds for termination. See, generally, *In re Newman*, 189 Mich App 61, 67-68, 70; 472 NW2d 38 (1991); see also MCL 712A.18f(1), (2), and (4) and MCL 712A.19a(2). The efforts at reunification must be ADA-compliant. See *In re Terry*, 240 Mich App 14, 25; 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.” MCL 722.638(1)(b)(ii)(B); MCL 712A.19a(2)(a). On November 22, 2011, we remanded this case to the trial court for judicial determination, see MCL 712A.19a(2)(a), regarding whether a prior case that led respondent to voluntarily terminate her rights to an older child involved “[c]riminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.” *In re Chadwell*, unpublished order of the Court of Appeals, entered November 22, 2011 (Docket No. 303539).

The trial court explicitly stated on remand that the prior case did involve “[c]riminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.” Although the proofs at the remand hearing could have been more detailed regarding the “penetration” issue, we nonetheless find the evidence of record sufficient to support the trial court’s finding. There was evidence introduced about molestation and difficulties in potty training, and there were also certain admissions by respondent involving her boyfriend having “messed around” with the child. In addition, we note that the child was taken for a vaginal examination, suggesting that penetration or attempted penetration was in issue.

Given the trial court’s findings and the record evidence, reunification services were not a requirement in this case and we thus find that respondent’s appellate issues are without merit.

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Joel P. Hoekstra  
/s/ Patrick M. Meter