

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEPHONSO B. ROSS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ALPHONSO ROSS,

Respondent-Appellant,

and

FRANKIE MAE NELSON,

Respondent.

UNPUBLISHED

May 1, 2008

No. 282391

Ingham Circuit Court

Family Division

LC No. 06-000191-NA

Before: White, P.J., and Hoekstra and Smolenski, JJ.

MEMORANDUM.

Respondent Ross appeals as of right the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (j). We affirm.

We note that respondent limits his argument to the trial court's decision to terminate his parental rights under § 19b(3)(g). Because only one statutory ground for termination need be proven by clear and convincing evidence, *In re Archer*, 277 Mich App 71, 73; 744 NW2d 1 (2007); *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000), and because respondent does not address the merits of the trial court's determination that termination was also appropriate under § 19b(3)(j), appellate relief is not warranted with respect to the issue whether a statutory ground for termination was sufficiently established. See *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998), overruled on other grounds *In re Trejo Minors*, 462 Mich 341 (2000) (an issue is deemed abandoned where it is not addressed on appeal); *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987) (failure to address a necessary issue precludes appellate relief). Addressing the issue, nevertheless, we find no basis for reversal.

The trial court did not clearly err in finding that § 19b(3)(g) was proven by clear and convincing evidence. *In re Archer, supra* at 73. Respondent was in prison when the child

entered foster care. He was released a few months later, but failed to comply with the service plan. By the time of the hearing, he was back in prison, although he was due to be released shortly. The trial court rejected as “totally unrealistic” respondent’s claim that it would take only three to six months after his release to achieve reunification. In light of respondent’s history as shown by the record, that finding is not clearly erroneous.

Respondent’s claim regarding petitioner’s failure to reasonably accommodate his disability as required under the Americans with Disabilities Act, 42 USC 12101 *et seq.*, is without merit. “[A] parent may not raise violations of the ADA as a defense to termination of parental rights proceedings.” *In re Terry*, 240 Mich App 14, 25; 610 NW2d 563 (2000). Further, respondent’s claim is not supported by the record. Respondent had an injury that affected his mobility, and he claimed that this injury prevented him from participating in services. However, respondent’s treating physician refuted that claim, testifying that neither the injury nor the prescribed medication prevented respondent from participating in services as long as he was provided with transportation. The updated service plans indicate that bus passes were available and, therefore, respondent’s disability was accommodated.

Affirmed.

/s/ Helene N. White

/s/ Joel P. Hoekstra

/s/ Michael R. Smolenski