STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of CHRISTOPHER GEIGER,
DANIELLE WILHELM and BETTY GEIGER,
Minors

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BETTY GEIGER,

Respondent-Appellant,

UNPUBLISHED
May 5, 1998

No. 201053
Bay Juvenile Court
LC No. 95-005358-NA

Before: Holbrook, Jr., P.J. and Gribbs and R.J. Danhof*, JJ.

PER CURIAM.

Respondent appeals as of right from the juvenile court order terminating her parental rights to the minor children under MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). We affirm.

The juvenile court did not clearly err in finding that there was clear and convincing evidence to establish the statutory ground for termination of respondent's parental rights. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Respondent was afforded a reasonable amount of time for necessary treatment, but she did not begin to make any real progress in her treatment until after the petition for termination of her rights was filed. She was only motivated to participate in treatment to avoid termination of her rights. While she made great progress in the few months she attended treatment, she still had a long way to go before the children could be returned to her care. In light of her questionable motivation to seek treatment, the juvenile court did not clearly err in concluding that the children could not wait for respondent to complete treatment. Respondent still needed at least one year for treatment and it was not reasonable for the children to wait that long. Furthermore, respondent failed to show that termination of her parental rights was clearly not in the children's best interests. *In re Hall-Smith, supra* at 471-473.

*Former Court of Appeals Judge, sitting on the Court of Appeals by assignment.

Respondent also argues that she did not receive adequate assistance from her caseworker as an explanation for why she did not make much progress on her treatment. However, the caseworker could only provide respondent with limited assistance given respondent's decision to relocate outside of Bay County and the fact that she did not always have transportation available. According to the caseworker, respondent was advised to remain in Bay County so that petitioner could work closely with her and monitor her case, but she voluntarily chose to remain outside of Bay County. Respondent's lack of progress on her treatment plan was not due to a lack of services offered by the caseworker or the caseworker's inadequate assistance.

Finally, respondent argues that pursuant to the Americans with Disabilities Act, 42 USC 12101 *et seq*., she should have received additional services and that she should have been allowed additional time for treatment due to a disability. This issue was not raised in the lower court. For this reason, this Court declines to address the merits of the issue. *In the Interest of CM*, 526 NW2d 562, 566 (Iowa App, 1994). Even assuming that the ADA applies in termination proceedings and that respondent has a disability, respondent's argument is not supported by the record.[1] Respondent did not produce any evidence regarding other services she should have received to accommodate her claimed disability. There is no evidence in the record that respondent could not have benefited from the services offered her if she had participated early on in the treatment process. If respondent had fully participated in treatment early on in these proceedings, she may not have required additional time for treatment. Accordingly, there is no merit to respondent's claim that the services offered failed to accommodate her alleged disability.

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Roman S. Gribbs
/s/ Robert J. Danhof

[1] We leave the issue of whether the ADA applies in child protection proceedings to another case where the issue has been properly raised and argued.