STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of Raven LaShawn Owens, Minor

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MONIQUE MERCER,

Respondent-Appellant.

UNPUBLISHED
May 19, 2000

No. 221580
Wayne Circuit Court
Family Division
LC No. 97-361425

Before: Markey, P.J., and Gribbs and Griffin, JJ.

MEMORANDUM.

Respondent appeals as of right from the family court order terminating her parental rights to the minor child (DOB: 5-10-97) under MCL 712A.19b(3)(c)(i), (g) and (j); MSA 27.3178(598.19b) (c) (i), (g) and (j). We affirm.

The minor child in this case was born prematurely and weighed less than one and one-half pounds at birth. She has never lived with respondent. The child was brought to the attention of petitioner Family Independence Agency (FIA) when, months after her birth, she was ready to be released from the hospital and could not be released to respondent because respondent had not visited regularly or learned to care for her. The minor child remains medically fragile and requires twenty-four-hour monitoring. She requires special care and frequent assessment by a variety of medical specialists. The child has an apnea monitor and a tracheotomy and could die in a matter of minutes if her airway becomes either too dry or too full of mucous. Someone needs to listen to her every breath, and, because of the tracheotomy, she cannot make sounds and must be visually observed at all times. The child needs to be in a near-sterile environment and cannot be exposed to cigarette smoke.

On appeal, respondent contends that the trial court erred in failing to grant trial counsel's request for an adjournment. We do not agree. On the day of trial, the social worker assigned to the case received an anonymous telephone message that respondent was in the hospital. The social worker

telephoned the five local hospitals and respondent's physician. Respondent was not registered at any of the hospitals and her physician knew nothing about a hospitalization. Because respondent had been untruthful about a variety of matters during the pendency of this case, the trial court declined an adjournment. The trial court set the matter aside for two days, however, and gave trial counsel the opportunity to provide documentation of respondent's claimed hospitalization. There is no evidence that any such documentation was provided. We find no abuse of discretion. *In re King,* 186 Mich App 458, 466; 465 NW2d 1 (1990.

Respondent also argues that termination was not warranted because respondent had substantially complied with the treatment plan. There is no merit to this claim. Contrary to respondent's argument on appeal, there was evidence that respondent's home was not suitable for a child with the medical needs at issue here, and there was no indication that respondent had done anything to make the home more suitable. There was also evidence in respondent's home of smoking. Respondent never availed herself of counseling services. Most significantly, respondent never progressed to the point where she could do the child's most difficult medical care. Respondent had not, in fact, learned to properly care for the child's tracheotomy or to suction the mucous that could kill her, and had never in the child's life been able to have unsupervised visitation. Although respondent complied with some parts of the treatment plan, she was inconsistent throughout. Even after the social worker stressed the need for respondent's compliance, respondent failed to be home for six of ten scheduled home visits. Respondent attended only nine of the child's fourteen doctor appointments, and she was late for many of those. Respondent argues on appeal that transportation was a problem, but the record shows that she was offered taxi transportation and provided bus tickets, and that she had a car.

The family court did not clearly err in finding that statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Sours,* 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller,* 433 Mich 331, 337; 445 NW2d 161 (1989). Further, respondent failed to show that termination of her parental rights was not in the best interest of the child. MCL 712A.19b(5); MSA 27.3178(598.10b)(5); *In re Hall-Smith,* 222 Mich App 470, 472-473; 564 NW2d 156 (1997). The family court did not err in terminating her parental rights.

Affirmed.

/s/ Jane E. Markey
/s/ Roman S. Gribbs
/s/ Richard Allen Griffin