

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of LUTHER LEONARD, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JAMIE LEONARD,

Respondent-Appellant.

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UNPUBLISHED

August 21, 2008

No. 282909

Arenac Circuit Court

Family Division

LC No. 02-007948-NA

Before: Schuette, P.J., and Zahra and Owens, JJ.

PER CURIAM.

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

The trial court did not clearly err in finding that the statutory grounds for termination found in MCL 712A.19b(3)(g) and (j) were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

At the time of the termination hearing, Luther had been in foster care for 18 months. Respondent was very compliant and cooperated with all of the services that petitioner required of him. However, there was evidence that respondent did not benefit from those services and that respondent was not ready for Luther to be returned to his custody. Randall Mey, respondent's therapist, recommended that respondent receive six more months of services and then respondent would possibly have the ability to parent his child. However, Mey's recommendations included many of the same services that respondent had already participated in for the previous 18 months.

Randall Christensen, the psychologist who conducted a psychological evaluation on respondent, explained that respondent had a combination of problems that made it difficult for him to learn and to consistently implement what he had learned. Respondent had a low IQ and bipolar disorder, and he was a victim of neglect and poor parenting as a child. While any one of these issues could be overcome, the combination made it difficult for respondent to function as a stable and independent adult.

In addition, respondent reported a long history of fighting and violence. The petition in this case was originally filed because of physical violence between respondent and the child's mother while the child was present. This violent history caused great concern for his future parenting skills. Christensen opined that respondent's immaturity, impulsivity, and propensity for anger made him vulnerable to erratic behavior in his interactions with his child. Moreover, respondent's ability to learn and apply what he had learned was very poor. Accordingly, there was no reasonable expectation that respondent would be able to alter his angry and violent behavior in a reasonable time considering the child's age.

In addition, respondent voluntarily released his rights to another child during this case. Christensen expressed concern about this because he thought that the release represented weak parental instincts and that parental instincts were very difficult to learn. Thus, the trial court did not err in terminating respondent's parental rights pursuant to MCL 712A.19b(3)(g) and (j) or in determining that termination was not clearly contrary to the child's best interests.

Respondent also argues that the trial court erred in terminating his parental rights because petitioner made no effort to reasonably accommodate his disabilities. This Court reviews the trial court's findings of fact under the clearly erroneous standard. MCR 3.977(J); *In re Miller*, *supra* at 337.

In *In re Terry*, 240 Mich App 14, 26; 610NW2d 563 (2000), this Court held that if the petitioner is violating the Americans with Disabilities Act (ADA), 42 USC 12101 *et seq.*, the respondent must raise the claim in a timely manner, when a service plan is adopted, so that any reasonable accommodations can be made. At that time, the trial court can address the respondent's claim and determine whether the petitioner made reasonable efforts to reunite the family. *Id.*

In this case, respondent never argued that the services offered were inadequate to accommodate his disabilities. However, even if respondent had raised this issue in a timely manner, the evidence does not support his claim that petitioner did not reasonably accommodate his disabilities. Matthew Engster, the caseworker, testified that respondent was provided with extensive services and there was no evidence that he was denied any services that were available to parents without disabilities. Engster did not believe that there were any other services that were available because respondent had been offered every service that petitioner had to offer. Petitioner was not required to provide respondent with full-time, live-in assistance with his children. *Id.* Accordingly, the trial court did not err in concluding that petitioner made reasonable efforts to assist respondent in reunifying with his child and terminating respondent's parental rights.

Affirmed.

/s/ Bill Schuette  
/s/ Brian K. Zahra  
/s/ Donald S. Owens