

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NORAEL MARIE PRATT-
WOOLEY, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LENORA ANN PRATT,

Respondent-Appellant.

UNPUBLISHED

April 15, 2010

No. 293748

Ingham Circuit Court

Family Division

LC No. 09-000432-NA

Before: DAVIS, P.J., AND DONOFRIO AND STEPHENS, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(g) (parent failed to provide proper care or custody and is unlikely to be able to do so within a reasonable time) and (j) (there is a reasonable likelihood of harm should the child return to the parent's home). Because the trial court did not clearly err when it found sufficient evidence warranted the termination of respondent's parental rights pursuant to both MCL 712A.19b(3)(g) and (3)(j), and because the trial court did not clearly err when it found termination of respondent's parental rights was in the best interests of the minor child, we affirm.

Respondent contests the sufficiency of the evidence to establish the statutory grounds and the court's best interests determination.¹ The trial court's decision to terminate parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000).

¹ Respondent did not preserve her claims concerning the Americans with Disabilities Act ("ADA"), 42 USC 12101, *et seq.* and the Persons with Disabilities Civil Rights Act ("PWDCRA"), MCL 37.1101, *et seq.* because she did not assert the need for accommodation for her learning disability at the time the service plan was adopted. See *In re Terry*, 240 Mich App 14, 26 n 5; 610 NW2d 563 (2000) (the failure to timely claim that a parent's rights under the ADA were violated constitutes a waiver). In any event, the evidence established that petitioner reasonably accommodated respondent's disability.

Respondent gave birth to the minor child involved in this case just eight months after respondent's older child was placed into a guardianship because of respondent's ongoing issues with neglect and abuse. Around the time of the minor child's birth, respondent lived with her mother, who was a negative influence on respondent, had a history of neglectful parenting herself, and was married to man with a record for criminal sexual conduct. Throughout this case, respondent exhibited unwillingness or an inability to apply skills taught to her to improve her parenting.² One glaring example of respondent's unwillingness or inability to execute basic skills to improve her parenting occurred when she was at least an hour late for a crucial psychiatric evaluation that had been provided to her as a final opportunity to show that she was serious about being a parent to the minor child. She did complete a psychological evaluation, which diagnosed her with a personality disorder and estimated she would need one to two years of intensive therapy before it could be determined whether she could safely parent the minor child. This evidence clearly and convincingly established that respondent had failed in the past to provide proper care or custody for a minor child, and that there was no reasonable expectation that respondent would be able to provide proper care and custody of this minor child within a reasonable time given the child's young age. MCL 712A.19b(3)(g).

Next, termination was also proper pursuant to MCL 712A.19b(3)(j). Respondent had a history of anger management issues. The trial court observed that respondent exhibited aggressive behavior during her testimony. In addition, the psychologist who conducted respondent's psychological evaluation opined that the minor child would be at risk of emotional harm if placed in respondent's care given respondent's high scores on parent stress tests, lack of an adequate amount of attachment to the child, diagnosis of a personality disorder, a high level of denial, and an inability to have insight into her own functioning. Despite assistance, respondent's mental health issues remained untreated. Also, respondent was unwilling or unable to apply skills taught to her in an attempt to improve her parenting. She also believed her mother's house was an appropriate placement for the child. Based on this conduct or capacity of respondent, there was a reasonable likelihood that the minor child would be harmed if returned to respondent's home. MCL 712A.19b(3)(j).

Under MCL 712A.19b(5), the trial court was required to make an affirmative finding that termination of parental rights was in the child's best interest before it terminated parental rights. In this case, respondent had not seen the minor child since the child's placement into foster care. In addition, the child was less than six months old at the time of the termination hearing, and in

² Respondent had participated in services during her older child's protective proceeding but was not provided services in the minor child's proceeding (except for psychological and psychiatric evaluations) because the initial petition sought termination of her parental rights. See MCL 712A.18f(1)(b); MCL 712A.19b(4); MCR 3.977(E); *In re Terry*, 240 Mich App at 25 n 4.

special need of permanency. Given this evidence, the trial court did not clearly err in its best interests determination.

Affirmed.

/s/ Alton T. Davis

/s/ Pat M. Donofrio

/s/ Cynthia Diane Stephens