STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ARIYANA HONESTI REED,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JAMIE LEIGH KOPULUS,

Respondent-Appellant,

and

JASON JAMAAL REED,

Respondent.

UNPUBLISHED
May 20, 2010

No. 296145
Ingham Circuit Court
Family Division
LC No. 08-002444-NA

Before: SHAPIRO, P.J., and JANSEN and DONOFRIO, JJ.

PER CURIAM.

Respondent Jamie Leigh Kopulus appeals by right the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(g)[1] and (j).[2] We affirm.

Respondent contends that the trial court erred when it denied her motion for an adjournment of the termination hearing. We disagree. This Court reviews a trial court's decision on a motion to adjourn a proceeding for an abuse of discretion. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). Respondent's reliance on MCR 2.503(C)(1) and (2) is misplaced. There was no representation that a witness or evidence was unavailable. The reason

[1] "The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age."

[2] "There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent."

given for the motion to adjourn was that the alleged potential witnesses were unknown to respondent's counsel because of respondent's failure to comply with the court's order and counsel's requests to provide the names of possible witnesses and any other information that could help her case during the previous adjournment. In addition, no information was provided to enable the court to make a finding whether the evidence provided by unknown and unnamed witnesses would be material. Finally, we find the record clear that, although counsel had made diligent efforts to contact respondent, her failure to communicate with him made diligent efforts to produce the witnesses or evidence impossible. Thus, respondent has not shown that MCR 2.503(C) applies to the facts of this case.

We also find that respondent has failed to make a showing under MCR 3.923(G). In order for a trial court to find good cause for an adjournment, "a legally sufficient or substantial reason" must first be shown. *Utrera*, 281 Mich App at 11, quoting *In re FG*, 264 Mich App 413, 419; 691 NW2d 465 (2004). Respondent has failed to do so. She has not produced any names of possible witnesses or given any information regarding what evidence they could have proffered which would have made a difference in the outcome of the case. See *VandeWerp v Plainfield Charter Twp*, 278 Mich App 624, 633; 752 NW2d 479 (2008). Thus, she has failed to satisfy the first requirement of MCR 3.923(G). Respondent has also failed to satisfy the second requirement of MCR 3.923(G). She has not shown that an adjournment would have been in the child's best interests. It would instead have only further delayed permanency for this child. Accordingly, we reject respondent's claim that the trial court abused its discretion when it denied her motion for an adjournment at the start of the termination hearing.

Respondent also contends that petitioner failed to make reasonable efforts to reunify her with her child by providing special services to accommodate her limited intellectual capacity. Respondent did not preserve this issue for appeal because it was first raised at the termination hearing. See *In re Terry*, 240 Mich App 14, 27; 610 NW2d 563 (2000). Thus, she must demonstrate plain error that affected the outcome of the lower court proceedings. *People v Carines*, 460 Mich 750, 762-764; 597 NW2d 130 (1999).

When a child is removed from the parent's custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal. *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005); MCL 712A.18f(1), (2), and (4). This includes accommodating a parent's developmental disability. *Terry*, 240 Mich App at 23-28. However, "[t]he ADA does not require petitioner to provide respondent with full-time, live-in assistance with her children." *Id*. at 27-28. In order to successfully claim lack of reasonable efforts, a respondent must establish that he or she would have fared better if the agency had offered the services in question. *Fried*, 266 Mich App at 543.

The psychologist who performed the most recent psychological evaluation of respondent found that she had a composite IQ score of 60, was unable to incorporate feedback and constructive criticism, had tremendous difficulty integrating information, had "a high degree of social alienation characterized by feelings of suspiciousness or even paranoia," and was not able to manage her own life because of her intellectual disability and her limited capacity. He opined that she was not in a position to raise a child, her condition was chronic and lifelong, and there was no reason to believe that there would be any dramatic change in her thinking capacity. He concluded that she needed intensive community resources, daily supervision, and daily training, which, he concluded, would exceed what could realistically be provided to her. Although he

made several recommendations for services that would aid respondent, he stated that his recommendations of programs and services, if implemented, would assist respondent in her everyday life, but they would not increase her capacity to function as a parent.

In addition to the psychologist's written evaluation and testimony, petitioner testified that respondent failed to maintain safe and stable housing and failed to attend meetings or provide information as required. Thus, she had not complied with the minimum requirements that were ordered and there was no reasonable expectation that respondent would have been any more cooperative or compliant with any additional services. The record shows that parenting and other services had been provided to respondent in connection with the removal of her first child and that she had failed to benefit from those services. From the evidence on the record, we find clear and convincing evidence to support the conclusion that in order for respondent to have custody of her child she would need constant supervision and full-time, live-in assistance. The kind of services that respondent would need are neither required nor feasible. *Terry*, 240 Mich App at 27-28.

This case is distinguishable from *In re Newman*, 189 Mich App 61, 66; 472 NW2d 38 (1991), upon which respondent relies. Unlike the respondents in *Newman*, respondent had not been cooperative with the workers or her attorney. She did not show up for appointments or keep in contact with those people who were trying to help her. She did not demonstrate "an ability and willingness to learn" and had not "improved the home, cleaned it up and kept it clean, remedied all the conditions . . . and kept the home appropriately furnished and stocked with food." *Id.* Moreover, the respondents in *Newman*, in addition to their commitment to each other, had the love and bonding of family members. *Id*. at 69. Unfortunately, the evidence in this case reveals that respondent does not have a support system. Respondent has failed to establish that she would have fared better if the agency had offered the services in question. *Fried*, 266 Mich App at 543.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Kathleen Jansen
/s/ Pat M. Donofrio