

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of JEREMIAS IRELAND, Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STACEY IRELAND, a/k/a STACY IRELAND,

Respondent-Appellant.

---

UNPUBLISHED

December 16, 2008

No. 285419

Clinton Circuit Court

Family Division

LC No. 07-019534-NA

Before: Saad, C.J., and Fitzgerald and Beckering, JJ.

PER CURIAM.

Respondent appeals an order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), (i), (j), and (l). For the reasons set forth below, we affirm.

**I. Procedural History**

In prior proceedings, respondent's parental rights to four other children were terminated because of neglect and abuse, and a fifth child was placed in a legal guardianship arrangement. While pregnant with the child in this case, respondent participated in some public services and, after the child's birth, petitioner investigated and allowed the child to remain in respondent's care while services continued. However, when the child was 13 months old, respondent threatened to kill herself in reaction to a financial assistance problem with petitioner, and a protective proceeding commenced. While there was initial hope that respondent could change her volatile behavior and drug use, within the first seven months of the proceedings, respondent verbally assaulted almost everyone connected to the case, she tested positive for cocaine and marijuana, and stopped participating in offered services. Respondent also failed to attend the last review hearing, the permanency planning hearing, and the termination trial.

**II. Extension of Trial**

Respondent contends that the trial court wrongly denied her attorney's request to extend the termination trial to a second day to allow her to present a witness who failed to appear. We review for an abuse of discretion the trial court's grant or denial of an adjournment. *People v Coy*, 258 Mich App 1, 17; 669 NW 2d 831 (2003). Here, there was no "good cause" for an adjournment under MCR 3.923(G) because respondent failed to show that the absent witness's

testimony was legally sufficient or substantial. *In re Utrera*, 281 Mich App 1; \_\_\_ NW2d \_\_\_ (2008). Any testimony about a bond between respondent and the child is questionable because respondent's last visitation occurred six months before the termination trial and her prior visits were inconsistent. Furthermore, other evidence overwhelmingly established that the child did not appear to miss respondent and would be endangered if exposed to her violent behavior. The trial court did not abuse its discretion in denying an adjournment.

### III. Assistance of Counsel

Respondent was also not deprived of the effective assistance of trial counsel. Respondent did not move for a new trial or request an evidentiary hearing, and this Court's review is therefore limited to errors apparent on the record. *People v Sabin (On Second Remand)*, 242 Mich App 656, 658-659; 620 NW2d 19 (2000). Respondent's attorney decided not to call certain witnesses whose testimony he believed would be unfavorable to respondent. Decisions regarding what evidence to present and whether to call or question witnesses are all matters of trial strategy, which this Court will not second-guess with the benefit of hindsight. *People v Dixon*, 263 Mich 393, 398; 688 NW2d 308 (2004). Furthermore, it was respondent, not her trial attorney, who decided against attending the termination trial and who mistakenly assumed there would be a second trial date. Respondent also contends that her attorney failed to secure for her copies of the initial service plan, parent/agency agreement, and updated service plans, and she argues that the lack of documentation made it difficult for her to know what barriers remained in the reunification process. This argument fails both factually and legally because the record clearly shows that her attorney received a copy of the initial service plan at the dispositional hearing, and there is nothing in the record to indicate the updated service plans were not made available to respondent.<sup>1</sup> Moreover, the service plan did not change throughout the proceeding, and respondent was well apprised of her responsibilities in the reunification process. Although it appears the parent/agency agreement was not provided to respondent in a timely manner, the treatment plan was clearly set forth in the initial service plan and court orders. On this record, it is clear that respondent was fully informed of what was expected of her and of the barriers to reunification. Lastly, respondent's visitations were suspended when she stopped providing drug screens so it would have been futile for her trial counsel to argue against the cessation of visitation when the court initiated termination proceedings. Counsel was not required to make a meritless argument. *People v Knapp*, 244 Mich App 361, 386; 624 NW2d 227 (2001).

### IV. Assistance with Reunification

Respondent also contends that petitioner failed to adequately assist her with reunification efforts. She does not indicate what other services should have been provided to her and, according to the initial service plan, she believed she was already involved in all services that were necessary to be reunited with the child. Her concerns about Accu-Check were promptly addressed and a referral to another testing agency was made within a reasonable time. The record does not support her claim that the foster care worker asked her to stop communicating

<sup>1</sup> MCL 712A.18f does not require that copies of the service plans be directly handed to all parties; rather, the statute states that the agency shall make those service plans "available" to all parties.

with him via emails. Testimony from the foster care worker revealed that respondent was clearly advised about what she needed to do to resume visitation with the child. Both the foster care worker and the initial service plan described respondent's participation in the development of the treatment plan, and respondent herself admitted that she was involved in the discussions about the parent/agency agreement. As noted, petitioner's failure to timely present respondent with a copy of the parent/agency agreement did not prejudice respondent because the court's expectations of her were clearly set forth and did not change throughout the proceedings. Respondent's failure to comply with the court-ordered services was fully attributable to her choices rather than any failure by petitioner to communicate its expectations.

Affirmed.

/s/ Henry William Saad  
/s/ E. Thomas Fitzgerald  
/s/ Jane M. Beckering