

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of C.L.B., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

REBECCA LYNN BISHOP,

Respondent-Appellant.

UNPUBLISHED
February 11, 2010

No. 293153
Kent Circuit Court
Family Division
LC No. 08-051139-NA

Before: Talbot, P.J. and Whitbeck and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her 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 were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The principal condition that led to adjudication was that respondent failed to provide appropriate and necessary medical care for her daughter, C.L.B., who has severe medical problems resulting from spina bifida. As she admitted at the adjudication hearing, respondent did not attend all necessary medical appointments, failed to ensure that C.L.B. had (and wore) a back brace that fit properly to prevent further curvature of her spine, did not care for C.L.B.'s skin properly to prevent open sores, had inadequate knowledge of services in the community that would help C.L.B., refused offered services, and actively avoided CPS workers. This neglect, among other things, caused C.L.B.'s scoliosis to worsen, and eventually she needed extensive back surgery.

The record contains clear and convincing evidence that, despite the many services offered to respondent, she did not benefit from them. Rather, she remained unable or unwilling to provide proper medical care for her daughter 14 months after C.L.B.'s removal from her home. Despite coaching and mentoring from her many service providers, respondent remained uncommunicative, uninvolved, and ineffective at C.L.B.'s doctor visits as well as at her parenting visits with C.L.B. Moreover, while respondent admitted some medical neglect, she blamed it on other people. She never accepted responsibility for C.L.B.'s removal from her home and did not change her problematic behavior.

The record as a whole established that termination of respondent's parental rights was in C.L.B.'s best interest. Within a month of being placed with foster parents who were skilled at taking care of children with disabilities, C.L.B. became much more talkative. During the pendency of this case, she became healthier than she had ever been and made considerable strides with her schoolwork as well as her self-esteem and confidence. Respondent had demonstrated that she was unwilling or unable to provide C.L.B. with the physical and emotional support she needs to continue her progression into a happier and healthier child. Accordingly, the evidence established that there were statutory grounds for termination of respondent's parental rights and that such termination was in the child's best interest, and the trial court did not err in so holding.

Respondent also argued that she was disabled under the Americans with Disabilities Act ("ADA") and the trial court erred by failing to ensure that the state provided her with reasonable accommodations. Respondent brought her disability (mild retardation) to the trial court's attention at the adjudication hearing, but never claimed below that the services she received were insufficient under the statute. Because respondent raises this argument for the first time on appeal, this Court need not address this issue. *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000). Even if respondent had preserved this issue, the record does not support her claim. The DHS was aware of her intellectual deficiencies and provided her with more services. Moreover the services were provided in a way that was calculated to mitigate her difficulty in comprehension, and she was referred to programs that were created specifically to assist parents with special needs. The state's efforts to assist respondent in making the changes necessary to care for her child properly were more than reasonable under the ADA. Unfortunately, respondent was unwilling or unable to benefit from those efforts.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Donald S. Owens