

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAZMINE ELLIS-DOWNING,
a/k/a JAZMINE ELLIS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PATRICIA ELLIS,

Respondent-Appellant.

UNPUBLISHED
February 11, 2010

No. 293326
Washtenaw Circuit Court
Family Division
LC No. 2008-000023-NA

Before: K. F. Kelly, P.J., and Jansen and Zahra, JJ.
PER CURIAM.

Respondent appeals by right the circuit court's order terminating her parental rights to her minor child under MCL 712A.19b(3)(g) and (j). We affirm.

Petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). Respondent argues that she had housing and social security income, tested negative for drugs, participated in services, and was motivated to parent her child. However, the evidence established that, because of her developmental disability, respondent was unable to properly and safely care for her child and had not improved significantly with the services that she was receiving. Respondent was unable to recognize when she needed medical help and could not perform basic parenting skills, even after repeated instruction.

Respondent argues that petitioner should have provided additional services, including one-to-one parenting education tailored to her specific disability. Petitioner generally must make reasonable efforts to rectify the problems in the home through a service plan, *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005), and failure to make reasonable efforts can certainly affect whether there was sufficient evidence to terminate parental rights, *In re Rood*, 483 Mich 73, 89; 763 NW2d 587 (2009); see also *In re Newman*, 189 Mich App 61, 67-68, 70; 472 NW2d 38 (1991). This includes accommodating a parent's developmental disability. See *In re Terry*, 240 Mich App 14, 23-28; 610 NW2d 563 (2000).

There was conflicting testimony regarding the effort the care worker made to locate an educator. However, respondent received parenting instruction and demonstrations during visits from two social workers and a sister who had degrees in learning disabilities and education.

According to their testimony, respondent was unable to learn even basic parenting skills. More instruction was unlikely to teach respondent enough to provide safe care for a young child in a reasonable time. Therefore, petitioner was not required to provide these services. See *In re Fried*, 266 Mich App at 543. Petitioner was also not required to provide the 24-hour-a-day, 7-day-a-week assistance that respondent needed to safely parent. See *In re Terry*, 240 Mich App at 27-28. We conclude that respondent was not reasonably likely to become able to provide proper care and custody for the child in a reasonable time. MCL 712A.19b(3)(g). And due to respondent's disability, the minor child was reasonably likely to be harmed if placed in her care. MCL 712A.19b(3)(j). We perceive no clear error in the circuit court's findings with respect to these statutory grounds. MCL 3.977(J).

Respondent also argues that the circuit court erred when it found that terminating her parental rights was in the child's best interests. MCL 712A.19b(5). Respondent cites her love for the child and attachment to the child. But there was little or no evidence that the child was truly attached to respondent. The minor child had been removed at birth, and had spent no appreciable period of time in respondent's care since then. Cf. *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001). Although respondent loved the minor child, she was simply unable to properly parent the child due to her specific disability. At a minimum, it would have taken a great deal longer for respondent to develop the skills required to adequately parent the child. More realistically, it was questionable whether respondent would ever be able to develop these skills at all. A child's need for permanence is relevant to the best interests analysis. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). Given the evidence presented in this case, we simply cannot conclude that the circuit court erred by finding that termination was in the child's best interests and by terminating respondent's parental rights.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Kathleen Jansen
/s/ Brian K. Zahra