IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 1-599 / 01-0268
Filed November 16, 2001

IN THE INTEREST OF S.R.M., Minor Child,

J.D.M., JR. and R.S., Parents,
Appellants.

Appeal from the Iowa District Court for Guthrie County, Dale B. Hagen, Judge.

The mother and father of minor child S.R.M appeal a juvenile court order terminating their parental rights. **AFFIRMED.**

Robert Kohorst of Kohorst, Early, Gross & Louis, Harlan, for appellants.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Mary L. Benton, County Attorney, for appellee State.

Karen K. Emerson of David L. Jungmann, P.C., Greenfield, guardian ad litem for minor child.

Considered by Huitink, P.J., and Miller and Hecht, JJ.

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PER CURIAM

Parents appeal a decision of the juvenile court which terminated their parental rights to their minor child. The mother claims the State did not present sufficient evidence to justify termination of her parental rights. The father claims the State did not engage in reasonable efforts to reunite him with his child. We affirm on appeal.

Robin and Jimmie are the parents of Sarah, born in November 1999. When Sarah was born she had illegal substances in her system. She also had some medical problems. She was removed from her parents' care and placed in foster care. Sarah was adjudicated to be a child in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(o) (1999).

Robin

In January 2000, Robin entered a substance abuse treatment program which allowed her to have Sarah with her. Robin was defiant of the program's rules, and left later that month. Sarah was hospitalized with pneumonia. There were concerns because Robin had continued to smoke around Sarah, against medical advice. Sarah was placed back in foster care when she was released from the hospital.

Robin tested positive for methamphetamine in February and March 2000, before she entered a new substance abuse treatment program. Robin was discharged after three days because she was in denial. Robin then entered a third substance abuse treatment program, and was successfully discharged in

April 2000. Robin received anger management classes while in treatment. She did not complete aftercare.

Robin had continuing problems with drug use. She admitted to using methamphetamine and marijuana in July 2000. In September 2000, Robin was living with her friend, Dennis. This home was searched by the police and marijuana, drug paraphernalia, and methamphetamine precursors were found in the home.

A psychological evaluation showed Robin had polysubstance dependence and an adjustment disorder with depressed mood. Robin was inconsistent in attending visitation. During visits she was not always attentive to Sarah's needs. Robin had an unstable relationship with Jimmie; they separated and then reunited several times while the case was pending.

Jimmie

Jimmie has a criminal history, including a conviction for possession of methamphetamine. In March 2000, he was convicted of animal abuse. He was later convicted of driving with a suspended license. He had minimal contact with the department of human services (DHS) during this case. He refused to participate in services. He attended only a few visits with Sarah.

Jimmie made several threatening statements to social workers involved in the case. He took no responsibility for Sarah's removal. He stated DHS had "kidnapped" Sarah and he planned to file a lawsuit. He threatened the lives of others if his parental rights were terminated. He has stated, "somebody might die if I don't get my daughter back." In September 2000, Jimmie was committed

to a mental health institute after he made threats to kill the county attorney, a DHS social worker, and their families. He was diagnosed with a bipolar disorder and outpatient treatment was recommended. Jimmie did not comply with this recommendation.

On October 29, 2000, the State filed a petition to terminate the parental rights of Robin and Jimmie to Sarah. The hearing was held on December 20, 2000, and continued on January 10, 2001. At the second day of the hearing, Robin testified she had a relapse into drug use since the first day of the hearing. The juvenile court terminated Robin's parental rights under sections 232.116(1)(d), (g), and (k). Jimmie's parental rights were terminated under sections 232.116(1)(d) and (g). Both parents have appealed.

I. Scope of Review

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Our primary concern is the best interests of the child. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. Sufficiency of the Evidence

Robin claims the State did not present sufficient evidence to justify termination of her parental rights. She asserts she has worked to overcome her addiction to drugs, and she was worked to participate in services. She feels she has made progress since the CINA case was initiated. Robin asks to have Sarah returned to her care.

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A court must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa Ct. App. 1996). The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In re D.A.*, 506 N.W.2d 478, 479 (Iowa Ct. App. 1993). At some point, the rights and needs of the child rise above the rights and needs of the parents. *J.L.W.*, 570 N.W.2d at 781.

We find there is clear and convincing evidence in the record to show Sarah could not be safely placed in Robin's care. Robin continued to use illegal drugs, even after she completed a substance abuse treatment program. Robin did not have a stable home, but testified she sometimes lived with Jimmie and sometimes with her friend, Dennis. Both Jimmie and Dennis had a history of drug use, which does not bode well for Robin's chances of recovery. Furthermore, Robin is unaware of the proper procedure for treating Sarah's medical problems. For all of these reasons, we determine Robin's parental rights were properly terminated.

III. Reasonable Efforts

Jimmie contends the State did not engage in reasonable efforts to reunite him with Sarah. In his brief he states:

> J.D.M. has not been given any opportunity to have a normal, custodial relationship with the child. Aside from the first few days in the hospital, and the days spent with R.S. in treatment, the child has been in the custody of DHS or its foster surrogate her entire life. J.D.M. has not had the opportunity to prove that he is capable of being a loving and responsible father to his child.

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The State must make "every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interest of the child." Iowa Code § 232.102(7); *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). The State must show reasonable efforts as a part of its ultimate proof the child cannot be safely returned to the care of a parent. *Id.* The focus is on services to improve parenting. *Id.*

While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997). We focus on the services provided by the State and the parent's response, not on services a parent claims the State failed to provide. *C.B.*, 611 N.W.2d at 494.

Here, there is no evidence Jimmie requested additional or alternative services prior to the termination hearing. The services offered to Jimmie were reasonable under the facts of the case. Jimmie chose not to participate in services. He only visited with Sarah nine or ten times during the entire time she was in foster care. Therefore, the problem was not that the State did not give Jimmie an opportunity to interact with Sarah, but that Jimmie did not take advantage of the opportunities presented to him.

We affirm the decision of the juvenile court.

AFFIRMED.

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