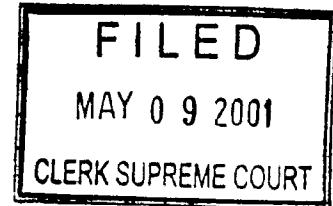


IN THE COURT OF APPEALS OF IOWA

No. 1-148 / 00-1631
Filed May 9, 2001



**IN THE INTEREST OF
K.D., Minor Child,**

**C.D.R., Mother,
Appellant.**

Appeal from the Iowa District Court for Jefferson County, William S. Owens, Associate Juvenile Judge.

A mother appeals from the order terminating her parental rights to her son.

AFFIRMED.

Sarah W. Cochran of Foss, Fuiken, Gookin & Cochran, Fairfield, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Patrick A. McAvan, Assistant County Attorney, for appellee-State.

Stephen Small, Burlington, guardian ad litem for minor child.

Considered by Huitink, P.J., and Vogel and Mahan, JJ.

MAHAN, J.

Christina, the mother of Kenneth, appeals the district court order terminating her parental rights. She claims the court erred in concluding reasonable efforts were made to reunify the family. She also argues the court should have placed Kenneth with his maternal grandmother instead of terminating her parental rights. We affirm.

Background Facts and Proceedings. Kenneth, born in August 1992, is the eldest of Christina's four¹ children. The family first came to the attention of the Department of Human Services (DHS) in August 1995 because of Kenneth's severe behavioral problems. Family developmental services were provided. Kenneth was removed from Christina's care in August 1998, and adjudicated CINA under Iowa Code section 232.2(6)(f) (1997). He was placed in foster care, where he remained throughout the pendency of this action. Christina has had only supervised visitation with Kenneth since his removal from her care.

Kenneth's younger sister, Skyler, was born in August 1996 and removed from Christina's care when she was five months old based on a founded report of denial of critical care. Christina's parental rights to Skyler were terminated in 1999. That termination was affirmed on appeal by this court. Christina voluntarily gave guardianship of her third child, Jaydon, born in December 1998, to her mother, Mary, when he was fourteen months old. Christina has

¹ Christina's fourth child was due in August 2000, after the July 2000 hearing on the petition for termination, but before the order was filed in September 2000. The record does not reveal information concerning this child.

supervised visitation with Jaydon. Kenneth, Skyler, and Jaydon all have different fathers.

The State provided Christina with family developmental services, homemaker services, parent skill development, individual counseling, and supervised visitation. A psychological exam of Christina diagnosed her with adjustment disorder and depression, post-traumatic stress disorder, and personality disorder. Christina also has had some substance abuse problems. She comes from a dysfunctional family background. She never met her father. Her two younger sisters each have a different father. The three sisters were removed from their mother's care for a time because of her inability to provide adequate housing.

After an April 1999 review hearing, the court found:

The court inquired of mother regarding the sufficiency of services being provided to them and whether additional services are needed to facilitate the safe return of the child to his home. The Court advised the mother that a failure to identify a deficiency in services or to request additional services may preclude them from challenging the sufficiency of services provided in a Termination of Parental Rights proceeding.

After permanency hearings in August and September 1999, the court found Christine was requesting an additional six months to prove she could provide a home for Kenneth. She also asked for unsupervised visits. The court concluded:

The court has inquired of the parties as to the sufficiency of the services being provided and whether additional services are needed to facilitate the safe return of the child to the child's home. The Court has advised orally and again in writing that failure to identify a deficiency in services or to request additional services

may preclude a party from challenging the sufficiency of the services in a termination of parent-child relationship proceeding.

During the course of this case, DHS considered and evaluated the homes of Kenneth's maternal great-grandmother and grandmother as possible placements for him. His great-grandmother was seventy-two years old; his great-grandfather was seventy-one years old. The great-grandfather has a history of mental illness since 1956. Concerning placing Kenneth with his great-grandparents, the court found:

[I]n view of her close relationship to mother, apparent past inability to have ministered adequately to child's emotional needs in the past, child's indicated special needs and care, and the advanced ages of [the great-grandparents], that the placement would be unsuitable.

The court also considered placing Kenneth with Christina's mother, Mary. After the August and September permanency hearings, the court found:

[Mary] indicated she is not presently employed as she receives disability benefits due to a seizure disorder. She takes medication for this condition, but does not believe it would affect her ability to care for the child if he was placed with her. [Mary] testified that over the last year she has only seen the child on seven or eight occasions during mother's supervised visits. [Mary] also testified that she had her three children removed from her care several years ago due to her inability to provide adequate housing for them. . . . As with [the great-grandmother], the Court believes [Mary] cares for the child, but it would not be in Kenneth's long term best interests to place him with her.

Termination Proceedings. In January 2000, DHS petitioned to terminate Christina's parental rights to Kenneth under Iowa Code sections 232.116(1)(e) and (f). Hearings on the petition occurred in July. The court found Christina was requesting an additional six months to prove she could provide a home for

Kenneth. She also was requesting unsupervised visitation. The court also found:

Mother acknowledges that she has participated in family preservation services on three separate occasions, has had in-home treatment services since 1997 and homemaker services prior to that. However, she appears to blame the service providers who are now recommending the termination of her parental rights for her apparent lack of progress. By contrast, she lauds the work of those providers that now favor her position. Clearly, mother has been afforded an ample number of services as well as numerous opportunities to show she can parent Kenneth. Despite these efforts the professionals with the most combined experience with mother and the child all recommend termination of mother's parental rights.

The court recognized Christina's desire to have Kenneth returned to her and one service provider saw her as "progressing toward her goal of family reunification." However, the court determined Kenneth need not wait any longer for his mother to make herself ready for family reunification and terminated Christina's parental rights on the statutory grounds pled.

Appellate Claims. Christina makes interesting arguments under the rubric of her claim the State did not make reasonable efforts to reunite her with Kenneth. Instead of arguing DHS should have provided more or different services, she first asserts it was not reasonable for the service provider in this case to be the same service provider who was recommending termination of Christina's parental rights in Skyler's case. Christina says:

It's neither realistic nor fair to expect that same worker to truly want to reunify Christina and Kenneth. . . . How likely is it that Ms. Sheetz will believe she will successfully reunite Christina and Kenneth when she is recommending Christina's parental rights be terminated to another child?

Second, Christina argues it was unreasonable to require the parent skill development sessions take place outside her home. She alleges the ulterior motive behind the requirement was to make it more difficult for Christina to attend because she had no transportation.

Christina also argues she never was allowed to have unsupervised visitation, thus never giving her a reasonable opportunity to prove she could adequately and appropriately parent Kenneth.

Finally, Christina claims Kenneth should have been placed with his maternal grandmother instead of terminating her parental rights.

Discussion. Although Christina makes some novel arguments concerning reasonable efforts to reunite her with Kenneth, she only cites authority in support of her claim for unsupervised visitation. More than one court order recites Christina asked for unsupervised visitation. Her requests were denied. This court has stated:

It is difficult to assess a parent's skill at caring for a child through supervised visits. Opinions advanced are those of the supervisor of the visitation based on his or her own value system of what is right and what is wrong in caring for a child. . . . The so called experts on the issue disagree, as evidenced by the volumes of conflicting instructions written on the subject.

In re H.L.B.R., 567 N.W.2d 675, 678 (Iowa Ct. App. 1997). Depending on the adequacy of other services offered, this court has affirmed a termination over a parent's claim unsupervised visitation should have been offered. *In re T.T.*, 541 N.W.2d 552, 556 (Iowa Ct. App. 1995). Christina participated in family preservation services on three separate occasions. She received in-home treatment services beginning in 1997. She received homemaker services before

that. DHS also provided individual therapy for Christina and for Kenneth. We find DHS provided adequate services designed to permit reunification in the instant case, even without unsupervised visitation. We affirm on this issue.

Concerning Christina's arguments another worker should have been assigned and parent skill development sessions should have been held in her home, Christina apparently did not raise either issue before this appeal and she cites no authority for either claim. We deem them waived.

Christina's final claim, Kenneth should be placed with her mother, fails. DHS did home studies on both Kenneth's maternal grandmother and maternal great grandmother. In both cases, placement was not appropriate. Christina argues the concerns about placing Kenneth with her mother have been addressed and she currently is caring for Christina's third child, Jaydon. Kenneth's grandmother, Mary, has a seizure disorder, is not able to care for two children financially, and has some abuse issues concerning Kenneth and her own children. Christina responds DHS placed Jaydon with Mary, so the abuse must not disqualify her from being considered for Kenneth's placement. Christina does not address, however, the difficulties of caring for Kenneth. He was removed, in part, because of his severe behavioral problems. We, like the district court, acknowledge Mary cares for Kenneth, but find it would not be in Kenneth's best interest to place him with her.

AFFIRMED.