IN THE COURT OF APPEALS OF IOWA

No. 0-371 / 00-0202
Filed August 16, 2000

FILED
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CLERK SUPREME COURT

IN THE INTEREST OF D.E.,
Minor Child,

V.E., Mother,
Appellant.

Appeal from the Iowa District Court for Des Moines County, Thomas R. Brown, District Associate Judge.

Mother appeals the court's order terminating her parental rights to her child. **AFFIRMED.**

Andrew S. Hoth of Hoth Law Offices, Burlington, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, and Mona Clarkson, Assistant County Attorney, for appellee-State.

Peggy Ell of the Public Defender's Office, Burlington, guardian ad litem for minor child.

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

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PER CURIAM

Overview: A mother, Verscine, appeals the termination of her parental rights to her youngest daughter, Denise. She claims the court erred in finding the State had made reasonable efforts to reunite them. We affirm the termination of Verscine's parental rights.

Background: Verscine had six children. Denise, the youngest, was born in 1992. The oldest five are not in her care or custody. Verscine acknowledges her parental rights to four of those five have been terminated. She has a chronic substance abuse problem which has been at the root of losing all her children. She has been through numerous inpatient and outpatient treatment programs without lasting success. Verscine was incarcerated in May 1998 for a term not to exceed ten years on drug charges. Relatives cared for Denise briefly before asking DHS to take her. The father is deceased. There are no relatives willing or able to take Denise.

The district court waived reasonable efforts under Iowa Code section 232.102(12)(c).[1] The court found clear and convincing evidence "that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to" Denise's removal. The court terminated

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[1] Iowa Code § 232.102(12). If the court determines aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

* * *

c. The parent's parental rights have been terminated under section 232.116 with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.

Verscine's parental rights to Denise under Iowa Code sections 232.116(1)(e), (f), and (k).

Scope of review: We review proceedings to terminate parental rights de novo -- we review the facts as well as the law and adjudicate a parent's rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the findings of the juvenile court, particularly with respect to the credibility of witnesses, but are not bound by them. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7).

Appellate claim: Verscine does not challenge any of the statutory grounds for termination. Her only claim is that the court erred in finding reasonable efforts were made to reunite her with Denise. She does state that all the statutory grounds cited by the court require either directly or by reference to section 232.102 that the court find the offer or receipt of services would not likely correct the problem within a reasonable time. However, her argument is that no services were offered, or the services offered were related to problems with her older children.

The State responds that Verscine did not request additional services and her incarceration makes provision of services impossible.

Discussion: We find Verscine's lengthy history of failure to overcome her chronic substance abuse problem despite repeated offer and receipt of services, coupled with the termination of her rights to most of her older children, supports the court's finding a waiver of reasonable efforts is appropriate under section 232.102(12)(c). In addition, while the State normally has the obligation to make

reasonable efforts to reunite a family, the parents have a responsibility to demand services prior to the termination hearing. *See In re C.D.*, 508 N.W.2d 97, 101 (Iowa App. 1993). The challenge concerning reasonable efforts was first raised in the termination hearing; therefore it comes too late and we will not consider it now. *See In re B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993); *In re H.H.*, 528 N.W.2d 675, 678 (Iowa App. 1995).

AFFIRMED.

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