IN THE COURT OF APPEALS OF IOWA

FILED
JAN 28 1998
CLERK SUPREME COURT

No. 7-723 / 97-0827
Filed January 28, 1998

000101

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

S.C., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Associate Juvenile Judge.

Mother appeals from juvenile court order terminating her parental rights. **AFFIRMED.**

Kellyann M. Lekar of Randall, Griffin, Nelson & Hawbaker, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Steven J. Halbach, Assistant County Attorney, for appellee.

Timothy D. Ament of Gartelos, Wagner & Ament, Waterloo, guardian ad litem for minor child.

Considered by Cady, C.J., and Sackett and Streit, J.

STREIT, J.

Sherrie and Roger are the parents of Emanuel, who was born in August 1992. Roger has not been involved in Emanuel's life and did not contest the termination of his parental rights. Sherrie appeals the juvenile court decision terminating her parental rights. We affirm on appeal.

Sherrie was involved with the Department of Human Services (DHS) while she was a juvenile. She has a history of mental health problems. Sherrie was raped by her step-brother, and this resulted in the birth of her first child, Jason, in 1989. In January 1993, Sherrie's parental rights to Jason were terminated pursuant to Iowa Code sections 232.116(1)(b) and (g) and section 232.117(3).

As noted above, Sherrie gave birth to Emanuel in August 1992. She had twin daughters, Patricia and Elizabeth, in September 1994. The twins had medical problems. In May 1995, DHS issued a founded report of denial of critical care against Sherrie because she failed to provide medical treatment for the twins. The girls were removed from her care and determined to be children in need of assistance (CINA). Sherrie later agreed to allow her adoptive mother, Pat, to adopt Patricia and Elizabeth.

As part of the CINA proceedings regarding the twins, Sherrie entered into a social contract with DHS which provided she would: (1) improve Emanuel's attendance at preschool; (2) meet the requirements of the case permanency plan; (3)

000103

improve the condition of her home; (4) agree to a substance abuse evaluation; (5) take her medication; (6) participate in counseling; and (7) cooperate with services.

Emanuel was removed from Sherrie's care in December 1995 and placed in foster care. Sherrie was not cooperating with services. She threatened to beat up her social worker, and threatened to kill a worker from DHS. She also refused to allow Emanuel to attend preschool, even though he had serious developmental delays. She missed an appointment with her psychiatrist and was not taking her medication. Emanuel was determined to be a child in need of assistance.

Sherrie has been diagnosed with depressive disorder, and delusional (paranoid) disorder. A psychological evaluation found Sherrie's children were at a high risk for neglect because of her psychological dysfunction. Sherrie has been inconsistent in attending individual therapy.

Sherrie had a substance abuse evaluation in December 1995, which determined she needed residential treatment. Sherrie was not happy with this evaluation, and had a second evaluation. The second evaluation recommended intensive outpatient treatment. Sherrie unsuccessfully attended treatment in February 1996. She entered a different treatment program in April 1996, but was again unsuccessful because she was not motivated to work on treatment issues.

Sherrie consistently attended supervised visitation with Emanuel. Emanuel made great progress in foster care, and is no longer considered developmentally

delayed. He is considered to be adoptable, and could be adopted into the same home as Patricia and Elizabeth.

In September 1996, the State filed a petition to terminate Sherrie's parental rights. Sherrie got married to Manuel, a resident alien, later that month. She had not previously discussed her proposed marriage with DHS. Manuel has not been involved in services. The couple lives in a home which is not appropriate for a child due to broken windows and problems with the plumbing.

The juvenile court terminated Sherrie's parental rights pursuant to sections 232.116(1)(c), (f), (h), and (j). The court found Sherrie was unable to make changes which would allow her to be reunited with Emanuel. Sherrie has appealed the termination of her parental rights.

The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Sherrie contends there was insufficient evidence to support the juvenile court decision to terminate her parental rights. We find clear and convincing evidence in the record to support termination of Sherrie's parental rights under section 232.116(1)(f). This sections requires a finding that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family.

(3) There is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation.

(4) There is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.

There is no dispute concerning the first two elements. Emanuel was adjudicated a child in need of assistance in January 1996. Sherrie's parental rights to Jason were terminated pursuant to section 232.117(3).

Concerning the third element, we find Sherrie lacks the ability or willingness to address her mental health problems. At the termination hearing, Sherrie stated she was not attending individual counseling because she was having emotional problems. She admitted therapy was designed to help her with these problems. In addition, Sherrie had not yet attended substance abuse treatment.

We find clear and convincing evidence of the fourth element, that an additional period of rehabilitation would not correct the situation. Sherrie's former therapist testified Sherrie would not benefit from services until she came to realization the services were being provided to help her, not hurt her. Sherrie had not yet come to this realization, and it is unknown when, if ever, she will do so. For these reasons, we find Sherrie's parental rights were properly terminated under section 232.116(1)(f).

Sherrie also raises arguments concerning sections 232.116(1)(c), (h), and (j). The State has admitted Sherrie's parental rights should not have been terminated under section 232.116(1)(j), which requires a finding of repeated hospitalization for chronic mental illness.

When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). We have already found Sherrie's parental rights were properly terminated under section 232.116(1)(f), and therefore, need not address her claims regarding sections 232.116(1)(c) and (h).

We affirm the decision of the juvenile court terminating Sherrie's parental rights to Emanuel.

AFFIRMED.