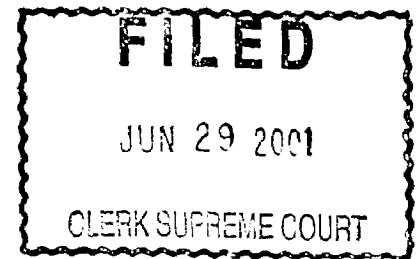


IN THE COURT OF APPEALS OF IOWA

No. 1-227 / 00-1390
Filed June 29, 2001

IN THE INTEREST OF
K.R.-B., Minor Child,
D.R., Mother,
Appellant.



Appeal from the Iowa District Court for Polk County, Karla J. Fultz, District
Associate Judge.

Mother appeals from the termination of her parental rights. She contends
the court erred in terminating her rights as the State failed to make reasonable
efforts to reunify the family prior to termination. **AFFIRMED.**

Charles W. Hendricks of the Lipman Law Firm, P.C., Clive, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Martha Johnson, Assistant County Attorney, for appellee-
State.

Samuel Z. Marks of Marks & Swartz Law Office, Urbandale, for minor
child.

Heard by Sackett, C.J., Huitink and Streit, JJ.

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SACKETT, C.J.

Debra appeals challenging an order of the juvenile court terminating her parental rights to her daughter Kayla, who was born in September of 1999. Kayla's putative father, who appeared and challenged paternity for the first time at the termination hearing, does not appeal. Debra does not challenge the grounds for termination, but contends that reasonable efforts were not made to reunite her with her daughter. She asks that the termination be reversed and the case be remanded to the juvenile court with directions to assure that appropriate services are offered to her. We affirm.

Kayla is the youngest of Debra's four children. Debra, who was thirty-eight years of age at the time Kayla was removed from her care, was divorced from the father of her three other children before Kayla was conceived. The decree dissolving this seventeen-year marriage named Debra and her former husband as joint custodians of these children ages fourteen, eight and six, and placed their primary physical care with their father. Debra exercises visitation with these children.

Kayla tested positive for cocaine at her birth. She went home from the hospital with Debra but was removed from her mother's care with Debra's consent about six days later. Initially Kayla was placed in the care of her maternal grandmother. On September 30, 1999, Kayla was found to be a child in need of assistance. The order followed a stipulation by all parties that the finding could be made. Kayla continued to reside with her grandmother. Debra spent considerable time with Kayla and assisted with her care on a daily basis. Debra completed a psychological-social evaluation and underwent substance abuse

treatment. Debra had been in treatment several times. She contended that the treatment recommended here was not adequate for her needs and these concerns were expressed to the court at a November 1999 hearing and in a letter in late November to Debra's case worker, the guardian ad litem for the child and an assistant Polk county attorney.

Debra was admitted to a center for addiction for extended night outpatient treatment on March 20, 2000. She did not call or return for treatment on March 22, 27 or 29. On April 3, 2000 the interdisciplinary team of the center made a decision to discharge Debra because she had not complied with the treatment program.

The State filed a petition to terminate the parental right of both of Kayla's parents on March 27, 2000. The matter was submitted to the juvenile court on May 19, 2000 and the termination was granted on July 25, 2000.

The sole question on appeal is whether reasonable efforts were made to attempt to reunify the family. Debra admits that she has been addicted to drugs since she was eighteen years old. She says she is still addicted to cocaine and that fact was known to the State. She contends that the State, knowing about her addiction, failed to place her in the type of program necessary for her to combat it.

The State contends that error was not preserved because Debra did not request additional services before the termination hearing and even if error was preserved that there is no merit to Debra's contention. The guardian ad litem argues that reasonable efforts were made.

We review de novo. *In re A.Y.H.*, 508 N.W.2d 92, 94 (Iowa Ct. App. 1993). *In re W.G.*, 349 N.W.2d 487, 491 (Iowa 1984) cert. denied, sub nom.; *J.G. v. Tauke*, 469 U.S. 1222, 105 S. Ct. 1212, 84 L. Ed. 2d 353 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. *Id.* at 491-92.

The State has the burden of proving the grounds for termination by clear and convincing evidence. See *In re T.A.L.*, 505 N.W.2d 480, 483 (Iowa 1993). A parent has the right to due process and a fair trial when the State seeks to terminate parental rights. *In re R.B.*, 493 N.W.2d 897 (Iowa Ct. App. 1992); see also *Alsager v. Iowa District Court of Polk County*, 406 F.Supp. 10, 22 (S.D. Iowa 1975). The issue of whether or not to legally sever the biological ties between parent and child is an issue of grave importance with serious repercussions to the child as well as the biological parents. See *R.B.*, 493 N.W.2d at 899. The goal of a child-in-need-of-assistance proceeding is to improve parenting skills and maintain the parent-child relationship. An underlying issue in a termination action is whether the parent is beyond help. A parent does not have an unlimited amount of time in which to correct his or her deficiencies. See *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990).

The core of the reasonable efforts mandate is that the child welfare agency must make reasonable efforts to prevent placement or to reunify families in each case. While the State has the obligation to make the efforts, the parents have a responsibility to demand services prior to the termination hearing. *In re C.D.*, 508 N.W.2d 97, 101 (Iowa Ct. App. 1993). Challenges to the plan for

reunification should come when the plan is entered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994).

In addressing a challenge that inadequate services have been offered a parent we need look first at the problem or problems that lead to the child's removal. There is no evidence that Debra physically or sexually abused Kayla or that she did not properly supervise her or give her adequate care. It is undisputed that Debra loves Kayla. Debra assisted her mother with Kayla's care on a daily basis. In October of 1999 a caseworker reported that Kayla was very healthy and on track developmentally. The worker further reported that the maternal grandmother with Debra's help was doing a great job of caring for Kayla. Debra is of average intelligence. She is a parent to three other children and was named their joint custodian in a dissolution decree.

The problem is Debra is addicted to cocaine. Her addiction resulted in Kayla testing positive for the substance at birth although fortunately there is no evidence Kayla has been harmed by her mother's cocaine use. Because of Debra's addiction the State asked that Kayla be found a child in need of assistance. Debra admitted early in the proceedings that she had an addiction and admitted that she was still addicted at the time of the termination hearing. While Debra was initially required to provide urine for testing on request at the onset of the proceeding, no initial provisions were made to place her in a treatment program. Debra did not provide the urine samples. In October of 1999 it was reported that Debra had complied with most services requested with the exception of providing urine samples. About the same time Debra was assessed and her assessment counselor took a biopsychosocial history. Debra was also

given several tests. The counselor reported that the assessments indicated Debra would benefit from an extended outpatient relapse program. Debra accepted a referral to the program and an appointment was made for October 21, 1999. There is no evidence she kept the appointment.

Debra has an addiction she cannot control. Were it not for her addiction, she would be an acceptable parent to Kayla. While we agree with Debra that she may have benefited from inpatient treatment, we note that according to her reports and those of her former husband she had been in a treatment program four or five times and she continues to be addicted. The State in offering services recognized her substance abuse problem and made arrangements for referrals, which Debra did not utilize. Reasonable efforts were made to avoid termination and reunite Kayla with Debra.

Kayla now lives with Debra's sister and her husband who wish to adopt the child. It appears that adoption will allow Kayla to have continual contact with her maternal grandmother who was her primary caretaker after birth. Termination and adoption will serve Kayla's interests. We affirm.

AFFIRMED.