IN THE COURT OF APPEALS OF IOWA

No. 1-401 / 00-2061
Filed July 18, 2001

FILED
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CLERK SUPREME COURT

IN THE INTEREST OF J.S.,
Minor Child,

A.S., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Cynthia Moisan, Associate Juvenile Judge.

The Mother appeals from the order terminating her parental rights to her daughter. **AFFIRMED.**

Pamela Vandel, Des Moines, for appellant.

Thomas J. Miller, Attorney General, M. Elise Pippin, Assistant Attorney General, and Martha Johnson, Assistant County Attorney, for appellee State.

Amy Peters of the Youth Law Center, Des Moines, guardian ad litem for minor child.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

Aron appeals a juvenile court order terminating her parental rights to Jasmine. She claims: (1) the State did not present sufficient evidence to support termination and (2) the child's best interests would have been served by leaving the child in the care of a relative until Aron could reassume her parenting responsibilities. We affirm.

I. Background Facts and Proceedings

Aron is the mother of Jasmine, born in August 1999. Aron was married to Brock at the time of Jasmine's birth. However, paternity testing showed Dale was Jasmine's biological father.[1]

Aron had a history of substance of abuse which led her to contract hepatitis B. In addition, she was charged with willful injury a year before Jasmine was born. She was placed in a youthful offender program which allowed her to avoid incarceration if she complied with the requirements of the program, including abstinence from drugs and alcohol and disassociation with other drug users.

When Jasmine was approximately six months old, Aron decided to leave Brock and move into a motel with a man named Troy, an admitted drug user. While unloading her belongings at the motel, she left Jasmine unattended in a car she shared with Brock. Brock, who had arranged to have the car returned to him later that day, saw it in the lot and decided to drive it home. On arriving home, he discovered Jasmine in the back seat.

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[1] Dale consented to termination of his parental rights. He is not a party to this appeal.

The Department of Human Services issued a founded report against Aron for denial of critical care based on this incident and on her failure to provide a consistent and predictable environment for Jasmine. Jasmine was placed in the care of Aron's brother and sister-in-law and was subsequently adjudicated a child in need of assistance.

At the time of Jasmine's removal, authorities arrested Aron for violating the youthful offender program's conditions. She was sent to a women's facility. She escaped from the facility but turned herself in to authorities after a month. The district court sentenced Aron to a prison term not to exceed five years.

The State petitioned to terminate the parental rights of Aron and Dale as to Jasmine. Dale consented to the termination. The juvenile court terminated Aron's rights following a hearing. Only Aron appeals.

II. Sufficiency of Evidence

The juvenile court terminated Aron's parental rights under Iowa Code sections 232.116(1)(b) (abandonment); (c) (services did not correct circumstances leading to adjudication); (d) (lack of meaningful contact); and (g) (child cannot be returned). Aron challenges the sufficiency of the evidence to support each of these grounds.

Our review is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). When the juvenile court terminates parental rights on more than one statutory ground, we may affirm if we find grounds to terminate under any one of the cited sections. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

We find sufficient evidence to support termination under Iowa Code section 232.116(1)(g). Aron was in prison at the time of the termination hearing.

Therefore, she was incapable of having Jasmine returned to her at that time. This circumstance was of her own making. As a participant in the youthful offender program, Aron could have avoided prison altogether if she had complied with the terms of the program. After Jasmine's birth, Aron consumed alcohol and marijuana, associated with known drug users, failed to obtain employment, and voluntarily became homeless, all in violation of those terms. When arrested for noncompliance, she again rebelled by escaping from the facility in which she had been placed and by remaining on the run for approximately a month. Therefore, Aron had no one to blame but herself for her extended separation from her young daughter.

Additionally, in the weeks preceding Jasmine's removal, Aron took little interest in Jasmine, allowing her husband to place the child with friends and his employer for days at a time. Although Brock's employer and his wife proved to be sterling temporary caretakers, it was Aron's responsibility, not theirs, to ensure Jasmine's welfare.

Despite Aron's self-destructive acts and apparent ambivalence towards Jasmine before the arrest, there is evidence Aron changed after she was imprisoned. She successfully completed a parenting course, telephoned her daughter regularly, and sent her gifts and a letter expressing her deep love. However, these acts came too late. *See In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa Ct. App. 1993). By that time, Jasmine had developed a close bond with Aron's brother and sister-in-law, a bond that Jasmine's psychiatrist suggested could be ruptured if Aron were allowed to have visitation. Based on these facts, we find clear and convincing evidence that Jasmine could not be returned to Aron's

custody and, accordingly, we affirm the juvenile court's termination of her rights under Iowa Code section 232.116(1)(g).

III. Best Interests

Under Iowa Code section 232.116(3)(a), a court need not terminate a parent's rights if the child has been placed with a relative. Aron contends application of this provision would have been in the best interests of the child.

In determining what is in a child's best interests, we must consider the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional needs of the child. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997); *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996). Jasmine was one and a half years old at the time of the termination hearing. She had been away from her mother for approximately half that time. Much of the absence was due to Aron's history of failed commitments and missed opportunities. Under these circumstances, we cannot conclude Jasmine's best interests would have been served by a long-term relative placement until Aron was ready to reassume her role as parent.

We affirm the juvenile court decision terminating Aron's parental rights as to Jasmine.

AFFIRMED.