000199

FILED
SEP 24 1997
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 7-390 / 96-2140
Filed September 24, 1997

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

J.L., Mother,
Appellant.

Appeal from the Iowa District Court for Ida County, Mary L. Timko, Associate Juvenile Judge.

The mother appeals a district court order terminating her parental rights to her minor child, S.L. **AFFIRMED.**

E.A. Jacobson of Jacobson Law Firm, Ida Grove, and Tobias A. Cosgrove of Cosgrove Law Firm, Holstein, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, and Lori J. Kolpin, Assistant County Attorney, for appellee State.

Joseph Kertels of Juvenile Law Center, Sioux City, guardian ad litem for minor child.

Considered by Cady, P.J., and Streit and Vogel, JJ.

STREIT, J.

Steven and Jessica are the parents of Stephanie, born December 1, 1990. The juvenile court terminated Jessica's parental rights to Stephanie because of numerous psychological problems and because the child cannot be returned to her mother. Jessica appeals. We affirm.

I. Facts.

Steven and Jessica were never married, though they did live together in Idaho for a period of time. In 1993, Steven and Jessica entered into an agreement where Stephanie would live six months with Jessica in Idaho and six months with Steven in Iowa.

During Stephanie's first extended visit to Iowa in 1993, Steven and his wife, Angie, contacted the Department of Human Services (DHS) asking for help with Stephanie because she was acting in a sexually inappropriate manner. Stephanie said she had been sexually abused by Jessica's former husband, Jeff. She also stated she had been slapped by her mother. DHS issued a founded report of sexual abuse by Jeff. There was also a founded report of physical abuse and denial of critical care naming Jessica as the perpetrator.

Steven's family began to receive services designed to help them deal with Stephanie's behavior. Stephanie also received individual play therapy. Her behavior began to improve. In April 1994, Stephanie received a telephone call from Jessica and in May 1994, she had a visit with her. These contacts started Stephanie's

behavior on a downward spiral. She began displaying aggressive behavior towards herself and her seventeen-month-old half-sister. In August 1994, Stephanie was hospitalized for an evaluation. Stephanie has been diagnosed with post-traumatic stress disorder, oppositional defiant disorder, and a psychotic disorder. She was placed in foster care in September 1994.

Stephanie was adjudicated a child in need of assistance (CINA) in November 1994. The case permanency plan required Jessica to complete a psychological and psychiatric evaluation, complete parenting classes, and maintain contact with DHS. After a dispositional hearing, the juvenile court placed Stephanie's custody with DHS. The court ordered that all contact between Stephanie and her parents would be at the discretion of DHS and therapists.

Stephanie's therapists requested there be no contact between Stephanie and her parents. Contact with either parent correlated with an increase in behavioral problems. Stephanie was hospitalized for her behavior in December 1994. In March 1995, Stephanie was shown pictures of Jessica and her behavior deteriorated so much she again needed hospitalization.

Jessica signed up for parenting classes in November 1995. After three classes she quit, and has not completed the course. In February 1996, the State filed a petition to terminate Jessica's parental rights to Stephanie.[1] After the petition was

[1] The guardian ad litem for Stephanie recommended termination of Jessica's parental rights to Stephanie.

filed, Jessica obtained a psychological examination, which showed she abused illegal drugs and experienced suicidal ideation.

On November 6, 1996, the juvenile court entered an order terminating Jessica's parental rights pursuant to Iowa Code sections 232.116(1)(c), (e), and (h). The court awarded Steven guardianship over Stephanie and continued her placement in foster care.

II. Scope of Review.

Our review of proceedings to terminate a parent-child relationship is de novo. *In re C.M.T.*, 433 N.W.2d 55, 56 (Iowa App. 1988). We give weight to the fact findings of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by them. *Id.* Our primary concern is the best interests of the child. *Id.* We look to the child's long-range, as well as immediate, interests. *Id.* We must find there is clear and convincing evidence to prove the allegations of the petition for termination. *In re L.G.*, 532 N.W.2d 478, 481 (Iowa App. 1995).

III. Discussion.

A. Jessica contends the juvenile court erred by considering the documents in the underlying CINA proceeding. Prior to the termination hearing, Jessica filed a motion in limine asking that the State not be allowed to offer any documents or exhibits because none were presented at the pretrial conference.

At the hearing, the juvenile court indicated it would take judicial notice of the record in the CINA proceedings. Jessica did not object to this action. The court interpreted the motion in limine to seek exclusion of documents generated after the pretrial hearing. Jessica did not request any other interpretation. The court ruled the new documents would be admissible because they had been given to all parties.

Judicial notice of CINA proceedings is not limited to evidence, but includes any part of the CINA record. *In re H.R.K.*, 433 N.W.2d 46, 48 (Iowa App. 1988). Because of the interdependent nature of CINA and termination actions, evidence properly admissible in an adjudicatory proceeding should be accorded the same standard of admissibility in a subsequent hearing on termination pertaining to the same child. *In re A.M.H.*, 516 N.W.2d 867, 873 (Iowa 1994) (citing *In re K.F.*, 437 N.W.2d 559, 563 (Iowa 1989)). We determine the juvenile court properly considered the record in the underlying CINA action in this case.

B. In terminating Jessica's parental rights to Stephanie, the juvenile court relied upon section 232.116(1)(e), which states:

> The court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child if the court finds all of the following have occurred:
>
> (1) The child is four years of age or older.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive

000204

> months and any trial period at home has been less than thirty days.
> (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Iowa Code § 232.116(1)(e) (1994).

The first two sections of the statute are undisputed. Jessica claims Stephanie has been out of the home for two and one-half years only because DHS denied her visitation. Jessica also claims there is not clear and convincing evidence Stephanie can not be returned home.

The types of harm specified to satisfy the requirement in the above section include the physical abuse or neglect of the child and the harm caused by the parent's failure to exercise reasonable care in supervising the child. *See C.M.T*, 433 N.W.2d at 56. Proof of any one of these types of harm is sufficient to support termination of parental rights. *Id.*

We find that if Stephanie were allowed to return home with her mother she would suffer harm again. Jessica failed to meet the requirements of the case permanency plan. She was also unable to supervise Stephanie during her one supervised visit. These are indications Jessica is not ready to meet Stephanie's need for support and supervision. Jessica does not recognize any of the problems which took Stephanie from her home. Based upon the response from Stephanie when shown any pictures of Jessica, it is clear Jessica had some involvement in the abuse of

Stephanie. We find there is clear and convincing evidence Stephanie cannot be returned to Jessica's home.

C. Jessica also raises issues on appeal concerning sections 232.116(1)(c) and (h). While the juvenile court terminated the parental rights of Jessica on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the court in order to affirm the court's ruling. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996).

We affirm the decision of the juvenile court terminating Jessica's parental rights to Stephanie. We determine this termination is in Stephanie's best interests.

AFFIRMED.