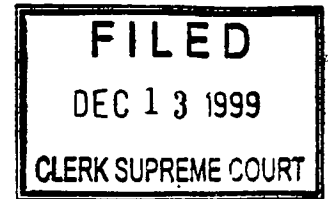


IN THE COURT OF APPEALS OF IOWA

No. 1999-310 (9-540) / 99-586

Filed December 13, 1999



IN THE INTEREST OF S.I.L.,

Minor Child,

J.S., Mother,

Appellant.

Appeal from the Iowa District Court for Scott County, John G. Mullen, District
Associate Judge.

A mother appeals the termination of her parental rights. **AFFIRMED.**

Kyle D. Williamson of Engelmann, Carroll & Williamson, Davenport, for
appellant.

Thomas J. Miller, Attorney General, Janet Hoffman and Chris Odell, Assistant
Attorneys General, and Gerda Lane, Assistant County Attorney, for appellee State.

Jack Dusthimer, Davenport, guardian ad litem for minor child.

~~John~~ Molyneaux, Davenport, for father.

Heard by Streit, P.J., Vaitheswaran, J., and Schlegel, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1999).

SCHLEGER, S.J.

Jody S. appeals the termination of her parental rights to her daughter, Shyanne.

We affirm.

Background facts. Jody S. and David L. have an extensive history with the Iowa Department of Human Services (DHS), having previously had their parental rights to two other children terminated due in 1995 to their criminal behavior, domestic violence, parenting deficiencies, and substance abuse. Their daughter, Shyanne, was born in April of 1997 and first came to the attention of DHS after police conducted a drug raid on the family home. Police reported that the house was extremely unsanitary and there was no food for Shyanne. An investigating social worker found the home relatively safe for the time being, but recommended the situation be monitored and services provided.

On June 29, 1998, an application for temporary removal was filed alleging that Jody and David had not been cooperating with services and that Shyanne's whereabouts were unknown. On August 12, 1998, Shyanne was found in a running vehicle by a security guard at a shopping mall. Jody and David were shoplifting and had left Shyanne unsupervised. Shyanne was subsequently placed in foster care and adjudicated a child in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2), (g), and (n) (1997). Jody and David were ordered to comply with the case permanency plan adopted by the court.

A ~~petition~~ to terminate Jody's and David's parental rights was filed on December 30, 1998. After hearing, the juvenile court entered an order terminating their parental rights pursuant to Iowa Code sections 232.116 (1)(d), (f), (g) and (k) (1997). Jody now appeals.

Scope of review. The scope of review in termination cases is de novo. *See In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa App. 1998). 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 child; we look to both the child's long-range and immediate interests. *M.N.W.*, 577 N.W.2d at 875. We consider what the future likely holds for the child if that child is returned to his or her parents. *In re L.C.K.*, 459 N.W.2d 489, 493-94 (Iowa 1990). Insight for that determination may be gained from evidence of the parent's past performance, for that may be indicative of the quality of future care that the parent is capable of providing. *See id.* at 494.

I. Reasonable services. Jody contends her parental rights were improperly terminated ~~because~~ she was not provided reasonable services. We would first note that Jody failed to challenge the adequacy of services in any prior proceedings. She has therefore failed to preserve error. *See In re H.H.*, 528 N.W.2d 675, 678 (Iowa App. 1995); *In re C.W.*, 522 N.W.2d 113, 117 (Iowa App. 1994) (challenges to

services should be made when they are offered). However, even if Jody had preserved this issue for appeal, it is without merit.

Following Shyanne's placement in foster care, a social worker met with Jody twice to explain the case permanency plan and emphasize the strict time limits for her rehabilitation. The plan required Jody to begin substance abuse treatment, attend domestic violence counseling, and cease all criminal behavior. Before Jody began any treatment or counseling, she was arrested again for shoplifting. As a result, Jody was incarcerated in Illinois for several months and was unable to participate in the offered services. Although reasonable reunification services must be provided before terminating parental rights, Jody cannot fault DHS for being unable to provide her services during her incarceration. *See In re E.K.*, 568 N.W.2d at 831. Jody's own actions prevented her from taking advantage of the services offered.

Jody also contends the juvenile court failed to take into account the services she sought out during her incarceration. While we acknowledge Jody's efforts in attending substance abuse treatment and working on her G.E.D., these accomplishments were still not sufficient to meet the requirements of the case permanency plan.

II. Parent-child bond. Jody next argues her parental rights should not have been terminated because of her close bond with Shyanne.

Iowa Code section 232.116(3)(c) (1997) provides that the juvenile court need not terminate the relationship between the parent and child if the court finds “clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.”

After careful review of the record, we find no clear and convincing evidence of a close bond between Jody and Shyanne. Jody provided little evidence beyond stating that Shyanne had become upset when departing from her on one occasion. Shyanne is now two and a half years old and has been out of Jody’s care for half of her young life.

Finally, Jody argues she should have been given more time to complete the case plan. However, a child should not be forced to suffer the parentless limbo of foster care endlessly. *See In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990); *see also Long v. Long*, 255 N.W.2d 140, 146 (Iowa 1977). We must reasonably limit the time for parents to be in a position to assume care for their children because patience with parents can soon translate into intolerable hardship for the child. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1994). At some point, the rights and needs of the child rise above the rights and needs of the parents. *See In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa App. 1997). We conclude the court did not err in terminating Jody’s parental rights and it was in Shyanne’s best interests to do so. We therefore affirm.

AFFIRMED.