IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 1-590 / 01-0384
Filed December 28, 2001

IN THE INTEREST OF A.M., Minor Child,

T.S., Mother,
Appellant.

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

Mother appeals from the termination of her parental rights. **AFFIRMED.**

Christopher Kragnes, Sr. and Tiffany Koenig, Des Moines, for appellant.

Thomas J. Miller, Attorney General, M. Elise Pippin, Assistant Attorney General, and Jennifer Navis, Assistant County Attorney, for appellee-State.

Pamela Vandel, Des Moines, for minor child.

Heard by Sackett, C.J., and Miller, J., and C. Peterson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (2000).

SACKETT, C.J.

Appellant R.M. appeals the termination of her parental rights to her daughter Angelina, pursuant to Iowa Code sections 232.116(1)(a), 232.116(1)(b), 232.116(1)(f), and 232.116(1)(k) (1999). R.M. claims on appeal that the district court erred in finding the State proved by clear and convincing evidence that 1) she consented to the termination under section 232.116(1)(a); 2) she abandoned Angelina under section 232.116(1)(b); 3) she would not respond in this case to additional services or rehabilitation time under section 232.116(1)(f); and 4) she has a substance abuse problem so severe that Angelina likely would not be returned to her care within a reasonable period of time under section 232.116(1)(k). We affirm.

Angelina was born to R.M. on August 6, 2000. She was placed into foster care directly from the hospital, having tested positive for methamphetamine at birth. She was found to be a child in need of assistance (CINA) a week later. R.M.'s parental rights to Angelina were terminated on February 13, 2001.

R.M. has an extensive history of drug use. Her rights to her six children born prior to Angelina have been terminated. She has a criminal history that includes convictions for possession of a controlled or illegal substance, escape from a correctional facility, and interference with official acts. At the time of Angelina's birth R.M. admitted to continuing use of methamphetamine. Following Angelina's removal R.M. was allowed supervised visits. During some of the visits, R.M. was unable to hold Angelina due to the side effects of her continuing use of methamphetamine. Further, R.M. did not attend several of the scheduled visits, at least once because she was high.

R.M. argues on appeal that her parental rights to Angelina were terminated prematurely. R.M. acknowledges her history of drug abuse, but claims that she is now committed to overcoming her drug problem. As evidence of this R.M. cites her successful in-patient treatment at Powell Chemical Dependency Center, her residence at the Bernie Lorenz Recovery Home, her entering into a relapse prevention program as an out-patient at Powell, and her attendance at AA/NA meetings five times per week. At the time of the termination hearing in December of 2000, R.M. had been sober for fifty days, which she claims is a significant achievement considering her history of drug abuse.

The State responds that R.M.'s drug abuse problem is chronic, and that her actions in the past indicate her lack of ability or willingness in the long run to respond to services. The State claims termination is appropriate under section 232.116(1)(f), among other sections, because an additional period of rehabilitation would not correct the situation in this case. The State cites R.M.'s history with all of her children, and particularly her history with Selena, to whom she lost parental rights in November of 1999, as evidence of the futility of rehabilitative efforts made on R.M.'s behalf. In the case of Selena, R.M. entered the House of Mercy in April 1997 while she was pregnant with Selena, but left with her child, then three months old, in November 1997, and began using illegal drugs again. Because of her drug use she was placed in a correctional facility, but relapsed again upon release. When Selena was removed from R.M.'s care in July of 1998, R.M. continued in her treatment-relapse cycle for the next year, which included stays at the Des Moines General Halfway House program, the

Gordon Women and Children's Center, and the House of Mercy. These stays, with the exception of the successful transition between the Gordon Women and Children's Center and the House of Mercy, were punctuated by recurring relapses. By October of 1999, when R.M.'s rights to Selena were terminated, she was again using methamphetamine.

Our review of termination proceedings is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). We review the facts as well as the law and adjudicate the parent's rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 831 (Iowa Ct. App. 1997). 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 Ct. App. 1996).

We find that the State demonstrated by clear and convincing evidence that, in view of R.M.'s prior terminations, especially the most recent termination involving Selena, termination of R.M.'s parental rights to Angelina was appropriate due to R.M.'s continued lack of ability or willingness to respond to services under section 232.116(1)(f). We further find, under section 232.116(1)(f), that the State demonstrated by clear and convincing evidence that an additional period of rehabilitation would not correct the situation. R.M. was sober for fifty days prior to the termination hearing. While we applaud her efforts, we cannot conclude that fifty days of sobriety is significant in light of her long history of drug use and continued relapses following treatment. Our primary concern is the best interests of the child. *See Dameron*, 306 N.W.2d at 745. It is

not in Angelina's interest to extend her term in parentless limbo. *See In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). Angelina is currently in a preadoptive home, the same one since her removal, where she has apparently adjusted well. The temporary foster-care situation which would result if we were to require her to wait for her mother's recovery, which, considering the past, is likely never to occur, is not in her interest. *See In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989).

AFFIRMED.