IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 1-653 / 91-1371

IN THE INTEREST OF N.M., J.M. and R.M., Minor Children,

STATE OF IOWA,

Appellant.

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Appeal from the Iowa District Court for Iowa County, Patrick R. Grady, Juvenile Referee.

The juvenile court refused to terminate a mother's parental rights to three of her children. The State, the guardian ad litem, and the father have all appealed. **AFFIRMED.**

Bonnie J. Campbell, Attorney General, John M. Parmeter, Special Assistant Attorney General, and Judy Sheirbon, Assistant Attorney General, for appellant State.

James E. Claypool, Williamsburg, guardian ad litem for the children, appellant.

Ronald L. Saylor, Williamsburg, for the appellant, father.

Mary K. Hoefer of the Mears Law Office, Iowa City, for the appellee mother.

Heard by Oxberger, C.J., and Schlegel and Sackett, JJ.

SACKETT, J.

The State sought to terminate the parental rights of the birth mother of three children, N.M., J.M., and R.M., born in 1986, 1987, and 1988. At the time of hearing, the children were in the care of their father. The trial court found the State had not met its burden to terminate the mother's parental rights under Iowa Code sections 232.116(1)(d), (e), and (g). The only question in this appeal is whether the trial court correctly interpreted Iowa Code sections 232.116(1)(d), (e), and (g), as requiring the children to be placed out of the homes of both parents before a parent's rights can be terminated under these sections. We find the trial court did. We affirm.

On September 16, 1988, a petition alleging the children were in need of assistance was filed. On January 11, 1989, the parents stipulated the children were in need of assistance pursuant to Iowa Code section 232.2(6)(c)(2). The children were placed in the home of the father's parents, and at the dispositional hearing on March 1, 1989, with the parents' consent, custody of the children was placed with the paternal grandparents as a relative placement. The father lived with his parents. On May 15, 1991, custody of the children was returned to their father, and he moved with them to a mobile home near his parents' home. At the time of the termination hearing, the children continued to reside with their father. The State on April

22, 1991, filed a petition seeking to terminate the parental rights of the birth mother.

The three children are currently in their father's custody. The State sought to terminate the parental rights of their birth mother under Iowa Code sections 232.116(1)(d), (e), and (g).

Section 232.116(1)(d) provides that the court may terminate the parental rights of a parent when:

> The court finds that all of the following have occurred:
>
> (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 and the placement has lasted for a period of six consecutive months.
> (3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

Section 232.116(1)(e) provides that the court may terminate the parental rights of a parent when:

> The court finds that 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 custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive 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.

Section 232.116(1)(g) provides that the court may terminate the parental rights of a parent when:

> The court finds that all of the following have occurred:
>
> (1) The child is three years of age or younger.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least six of the last twelve months, or for the last six consecutive months and any trial period in the home has been less than thirty days.
> (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

The trial court found it is

> "without authority to terminate the parental rights existing between the three children and their mother under the requirements of Iowa Code sections 232.116(1)(e) and (g). The Court believes that in reviewing the statutory scheme involved with these two subsections, especially where the court is required to make a reassessment of the appropriateness of the out-of-home placement pursuant to Iowa Code section 232.102, that the sections must be read to require that the out-of-home placement be current for each of the children and that the court must consider both possible parental homes in determining whether the State has met its burden under Iowa Code section 232.102 to show that the children cannot be returned to a parental home. Because the children are successfully living with their father, the Court cannot terminate the parental right of the mother under this subsection."

The Iowa legislature has statutorily provided parental rights can be terminated under certain specified circumstances. The trial court did not find the legislature, with regard to termination of parental rights,

intended a court could terminate parental rights in the situation covered under Iowa Code section 232.116(1)(d) when a child is living in the home of either of his or her parents.

The State and guardian ad litem for the children contend the trial court was not correct. They argue it is in the best interest of the children to terminate, there are reasons to terminate, and the children will have more stability if their birth mother's parental rights are terminated. They also contend it is not fair for the State to expend resources on this mother that could be used for other families.

The birth mother argues the children are not going to have an adoptive or replacement mother. She points out she has never harmed the children, and she poses no threat to them. The birth mother currently does not have visitation. The birth mother stresses the importance to the children of maintaining their biological ties. She also argues there is a possibility she may correct her parenting deficiencies and offer assistance to the children in the future.

We note too, if the birth mother's parental rights are terminated, she will have no further duty of support to these children. While she does not have resources to offer substantial financial support at this time, it cannot be predetermined she will not have these resources in the future.

The arguments made by the State, guardian ad litem, and birth mother are arguments that address policy considerations. However, to decide the issue we must, as the trial court correctly did, first look to the applicable statutes to determine whether they address this issue. If the statutes address the issue, we follow their direction. In looking at the statutes, we look first to the words used. Northern Natural Gas Co. v. Forst, 205 N.W.2d 692, 694-95 (Iowa 1973). We give the words used their ordinary meaning. City of Des Moines v. Elliott, 267 N.W.2d 44, 45 (Iowa 1978). We do not supply words or extend the meaning of those used. Peterson Co. v. Freeburn, 204 Iowa 644, 646, 215 N.W. 746, 748 (1927). Where the language of the statute is plain and unambiguous and its meaning is clear and unmistakable and there is no room for construction, we are not permitted to search for its meaning beyond the statute itself. Brauch's Estate v. Beeck, 181 N.W.2d 132, 134 (Iowa 1970).

These children have not been transferred from a parent or parents for placement pursuant to Iowa Code section 232.102. The statutes under which the State seeks to terminate require that they be transferred. We affirm.

AFFIRMED.