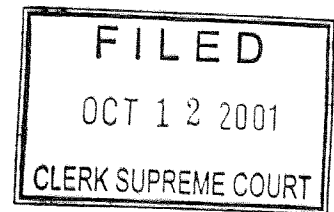


IN THE COURT OF APPEALS OF IOWA

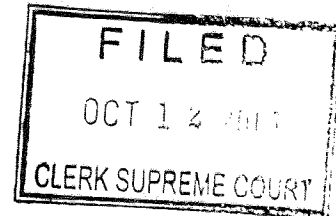
No. 1-586 / 01-0359
Filed October 12, 2001



IN THE INTEREST OF C.K.A., Minor Child,

R.S., Mother,
Appellant,

T.A., Father,
Appellant.



Appeal from the Iowa District Court for Johnson County, Sylvia Lewis,
District Associate Judge.

The mother and father appeal the court's order terminating their parental
rights. **AFFIRMED.**

Maurine A. Braddock of Honohan, Epley, Braddock & Brennehan, Iowa
City, for appellant-mother.

Patrick Ingram of Mears Law Office, Iowa City, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John Sarcone, County Attorney, and Cory McClure, Assistant
County Attorney, for appellee-State.

Amy Evenson of Larson & Evenson, Iowa City, for minor child.

Heard by Hayden, Habhab, and Harris, Senior Judges.*

*Senior Judges assigned by order pursuant to Iowa Code section
602.9206 (2001).

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HAYDEN, S.J.

A mother and father appeal the court's order terminating their parental rights. The mother contends (1) parental rights should not be terminated due only to lack of a stable home, (2) the department of human services did not satisfy its obligation to make reasonable efforts to reunify her and the child, and (3) the juvenile court failed to properly protect her parental rights. The father contends (1) the court failed to protect his rights, (2) it failed to identify the appropriate statute for termination, (3) it failed to identify the threat of harm to the child and the Iowa Code section that supports termination, (4) there is no support for the finding the child has been out of the parental home, (5) there was no evidence the home was unsafe, (6) the court improperly allowed financial considerations to influence its decision, and (7) the State failed to make reasonable services available. We affirm.

I. Background Facts and Proceedings. Ronda and Travis are the parents of Courtney, born in February of 1999. At the time of Courtney's birth, Ronda was fifteen years old and Travis was sixteen years old. On November 15, 1999, the parties stipulated Courtney was a child in need of assistance pursuant to Iowa Code sections 232.2(6)(b) and (c)(2) (1999). They also stipulated that Ronda was a child in need of assistance pursuant to Iowa Code sections 232.2(c)(2), (d) and (g).

On December 30, 1999, after a dispositional hearing, the court placed Courtney with her paternal grandmother. Travis lived with Courtney and his mother but did little to support or care for Courtney and was dependent on his

mother. Ronda planned on going into Independent Living when she turned sixteen, but later chose to live in a trailer with Travis's older brother and his girlfriend instead. She eventually moved in with her mother and stepfather, whom the department of human services had concerns about due to their alcohol abuse, criminal record, and their lack of support for Ronda.

In November 2000 the State filed a petition to terminate Ronda's and Travis's parental rights to Courtney. Travis's and Ronda's parental rights were terminated pursuant to Iowa Code section 232.116(1)(g) (2001). Travis's 179(b) motion was denied.

II. Scope of Review. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). Our primary concern is the best interests of the child. *In re M.T.*, 613 N.W.2d 690, 691 (Iowa Ct. App. 2000). The grounds for termination must be shown by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

III. Termination of Ronda's Parental Rights. The juvenile court terminated Ronda's parental rights pursuant to Iowa Code section 232.116(1)(g). Section 232.116(1)(g) provides for termination of parental rights if:

- (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 child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at 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 first three elements have been met. The only issue is whether there is clear and convincing evidence Courtney cannot be returned to Ronda's care.

Under Iowa Code section 232.102(5), custody of a child should not be transferred to a parent when the child cannot be protected from some harm that would justify a CINA adjudication. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). The threat of such harm will justify a termination under Iowa Code section 232.116(1)(g). *Id.* This need not be the same harm that led to the child's initial out-of-home placement, so long as the threat of harm is proved by clear and convincing evidence. *Id.*

There is clear and convincing evidence to support the trial court's termination of Ronda's parental rights. Courtney would be subjected to harm if returned to Ronda's care. At the time of trial, Ronda lived with her mother and stepfather, with whom she had been living when she became pregnant. When Ronda's mother learned of the pregnancy, she told Ronda she was not allowed to live in her home if she intended on keeping the baby. Her mother did not provide her with any financial or emotional support during her pregnancy or the first year of Courtney's life. These problems led Ronda to be adjudicated in need of assistance. Additionally, Ronda's mother and stepfather had problems with alcohol. The stepfather was intoxicated when he arrived to testify at the termination hearing. We determine placing Courtney with Ronda would subject her to harm and justified a CINA adjudication. Termination was proper under Iowa Code section 232.116(1)(g).

Ronda argues the department of human services (DHS) did not make reasonable efforts to reunify her with her daughter. Iowa Code section 232.102(7) requires DHS to make reasonable efforts to return a child to their parent. Services are to be offered to improve parenting skills. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). A challenge to the sufficiency of such services should be raised when the services are offered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994).

Ronda's argument DHS failed to make reasonable efforts toward reunification lacks merit. Ronda only requested one additional service from DHS: she asked the State to provide her with appropriate housing. Prior to this request, Ronda had the opportunity to live with Courtney at Independent Living. She chose not to participate in the program. After Ronda requested she be provided with appropriate housing, DHS gave her information on leased housing assistance. Ronda again chose not to avail herself of these services. She cannot blame DHS for these failures.

Finally, Ronda contends the State failed to protect her parental rights. While the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills," this patience has been built into the statutory scheme of chapter 232. *In re A.C.*, 415 N.W.2d 609, 613-14 (Iowa 1987). Children should not be forced to endlessly await the maturity of a natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1987). "At some point, the rights and needs of the child rise above the rights and needs of the parent." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997).

IV. Termination of Travis's Parental Rights. Travis first argues the district court failed to identify the statutory basis for terminating his parental rights. The order specifically stated, "It is hereby ordered that the parent-child relationship existing between [the mother] and [the father] to the child . . . are hereby terminated pursuant to Iowa Code section 232.116(1)(g)." This argument is without merit.

Travis next contends the State failed to prove Courtney would suffer harm if returned to his care. There is clear and convincing evidence to support the trial court's order. At the time of termination, Travis was seventeen years old. He was not enrolled in school and had not been employed in over one year. He was unable to provide the mere twenty-five dollars per month in child support required of him. While Travis occasionally helps with Courtney's care, it is obvious his mother is her primary caregiver. Travis has not indicated he is willing or able to take on this role. The evidence reveals he would not be able to do so anytime in the foreseeable future.

Travis argues there has been no showing Courtney has been removed from his physical care because he lives with her in his mother's home. Although Travis resides in the same home as Courtney, he does not have custody of her. In January of 2000 the court ordered custody and guardianship of Courtney be placed with Travis's mother. She was responsible for Courtney's physical care. Courtney has been in her paternal grandmother's physical care for over one year at the time of termination. The third element of section 232.116(1)(g) was met.

Travis argues the State failed to make reasonable services available to him. A challenge to the sufficiency of the services should be raised at the removal or review hearing or when the services are offered. *In re L.M.W.*, 518 N.W.2d at 807. It is too late to challenge the service plan at the termination hearing. *Id.* Travis's challenge was not timely. Error was not preserved.

Finally, Travis alleges the court failed to protect his parental rights. He claims the court determined the paternal grandmother was a better parent and did not first determine he had forfeited his rights. There is ample evidence in the record to terminate Travis's parental rights pursuant to Iowa Code section 232.116(1)(g). We reject this argument.

We agree with the trial court in terminating Ronda's and Travis's parental rights to Courtney.

AFFIRMED.