IN THE COURT OF APPEALS OF IOWA

No. 8-316 / 98-0219
Filed August 28, 1998

IN THE INTEREST OF D.L.N. a/k/a D.L.B. and M.E.,
Minor Children,

K.B., Father of D.L.N.,
Appellant,

C.N., Mother of D.L.N. and M.E.,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Patrick H. Tott, Associate Juvenile Judge.

Father and mother appeal from the juvenile court order terminating their parental rights. **AFFIRMED.**

John C. Nelson of Molstad & Thomas, Sioux City, for appellant-father.

Douglas L. Roehrich, Sioux City, for appellant-mother.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee-State.

Martha M. McMinn, Sioux City, guardian ad litem for minor children.

Considered by Sackett, P.J., and Huitink and Mahan, JJ.

HUITINK, J.

Crystal is the mother of Deidra, born in July 1995, and Meredith, born in December 1996. Kelly is the father of Deidra. Meredith's father has not been involved in her life and is not a party to this appeal.

Deidra was born prematurely and had several medical problems. Public health nurses were unable to maintain contact with the child due to Crystal's frequent moves and Crystal did not always provide the child with proper health care. The Department of Human Services (DHS) issued a founded report of denial of critical care due to Crystal's failure to provide adequate medical care.

In November 1995, Kelly was taking care of Deidra. He contacted DHS seeking help in caring for the child. Later the same day he refused any help. On November 13, 1995, Deidra was removed from Kelly's care and placed in foster care. She was adjudicated to be a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b) (parents are imminently likely to abuse or neglect the child), (c)(2) (child's parents fail to exercise a reasonable degree of care in supervising the child), and (n) (parents' drug or alcohol abuse results in child not receiving adequate care).

Crystal has a long history of substance abuse and residential placements. She has also had problems with eating disorders. Crystal has led a nomadic lifestyle. In November 1995, she had a substance abuse evaluation which recommended outpatient treatment. Crystal refused treatment until April 1996, when she entered an

outpatient substance abuse treatment program. She did not successfully complete the program. She was not cooperative with services. Crystal was inconsistent in attending supervised visitation with Deidra.

In December 1996, Crystal gave birth to Meredith, who was also born premature and has health problems. Meredith was adjudicated to be a child in need of assistance pursuant to sections 232.2(6)(b), (c)(2), and (n). Meredith remained in the hospital until January 1997, when she was placed with Crystal at a treatment program for women and their children. In February 1997, Crystal decided to leave this program, even though she knew it meant Meredith would be placed in foster care.

In June 1997, Crystal entered a new treatment program, and it was expected Meredith would join her there after a month. Before Meredith was returned to her care, however, Crystal left the program.

Kelly also has a long history of substance abuse. Shortly after Deidra was removed from his care, Kelly was hospitalized for depression. In December 1995, he attended outpatient treatment for substance abuse. Kelly pled guilty to forgery and driving with a suspended license. He was placed on probation. He began visitation with Deidra in February 1996.

In April 1996, Kelly entered an outpatient treatment program. He decided he needed a more structured environment, and entered a residential treatment program in May 1996, which he successfully completed. In July 1996, he entered an outpatient program. Before he completed the outpatient program, he was arrested in

South Dakota. Kelly is presently serving a five-year term of incarceration. He is not expected to be released until late 1998.

In December 1996, Deidra was placed with Kelly's mother, Paula, and she has done well in this placement. Meredith has remained in foster care since February 1997. Both children have some respiratory problems due to their premature births.

In August 1997, the State filed a petition to terminate the parental rights of Crystal and Kelly. After the petition was filed, Crystal entered a halfway house, and remained there at the time of the termination hearing. Kelly was still in prison in South Dakota.

The juvenile court terminated Crystal's parental rights to Deidra and Meredith under sections 232.116(1)(c) (conditions which led to removal continue despite the offer or receipt of services) and (g) (child under four, has been removed for at least six months, and cannot be returned to the home). The court terminated Kelly's parental rights to Deidra under section 232.116(1)(g). Crystal and Kelly have appealed.

I. 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). 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 children. *In re A.B.,* 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Crystal.

Crystal contends termination of her parental rights was not in the best interests of the children. She states she successfully completed outpatient substance abuse treatment and was progressing in the halfway house. She admits the children cannot be returned to her at the present time, but asks for more time. She also suggests Deidra could have been placed under the guardianship of Paula, without terminating her parental rights.

We determine termination of Crystal's parental rights is in the best interests of the children. The children should not be required to wait any longer for Crystal to address her substance abuse and eating disorder problems. We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa App. 1997).

In addition, we find it would not be in Deidra's best interests to be placed in the guardianship of Paula. It is not in a child's best interests to delay the chance of a permanent, stable home. *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa App. 1993). Under a guardianship, the parents could seek to terminate the guardianship at any time. Terminating Crystal's parental rights will provide Deidra with more stability than a guardianship would provide.

III. Kelly.

Kelly claims it was not in Deidra's best interests to terminate his parental rights. He also suggests Deidra could have been placed in the guardianship of Paula. Kelly believes that within a few years he would be able to resume care of Deidra.

We have already discussed the reasons why it is not in Deidra's best interests to be placed in the guardianship of her grandmother. Deidra should have more stability than a guardianship provides. With termination of Kelly's parental rights, Deidra may experience the permanency of adoption.

We affirm the decision of the juvenile court terminating the parental rights of Crystal and Kelly.

AFFIRMED.