IN THE COURT OF APPEALS OF IOWA

No. 1999-226 (9-450) / 98-2103
Filed August 27, 1999

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AUG 27 1999
CLERK SUPREME COURT

IN THE INTEREST OF
S.B. and S.B.,
Minor Children,

D.B., Father,
Appellant.
S.B., Mother,
Appellant.

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

Mother and father separately appeal the termination of their parental rights to their two children. **AFFIRMED.**

Cheryl J. Newport and Stephen W. Newport of Newport & Newport, Davenport, for appellant-father.

Norma Nunez of Coryn, Walker, Meehan & Nunez, Rock Island, Illinois, for appellant-mother.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Gerda Lane, Assistant Country Attorney, for appellee-State.

Henry Latham, Davenport, Attorney and Guardian ad litem for the minor children.

Considered by Sackett, C.J., Streit, J., and Hayden, S.J.* Vogel, J., takes no part.

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

HAYDEN, S.J.

Sandra and David are the parents of Samantha, born in August 1990, and Steven, born in October 1991. The parents appeal the termination of their parental rights. They claim the juvenile court should have held a permanency hearing, there was insufficient evidence to terminate their parental rights, and the State did not provide reasonable services. We affirm on appeal.

David had two older children, Larry and Marcus, who also lived with the family. In 1991, Sandra requested services from the Department of Human Services (DHS) because of concerns Larry had sexual contact with Marcus and Samantha. The family received services.

In November 1995, an investigation on another matter revealed there was still sexual contact among the children. DHS issued a founded report of denial of critical care due to the parents' failure to adequately supervise the children. Samantha was adjudicated to be a child in need of assistance pursuant to Iowa Code section 232.2(6)(d). She remained in her parents' care subject to supervision by DHS. The parents participated in parenting skill development sessions.

In May 1996, Larry and Marcus were adjudicated to be children in need of assistance. The parents had not adequately addressed the issues of sexual abuse, nor secured the appropriate counseling for the children. Larry and Marcus were placed in a residential treatment facility. Marcus later revealed he had been sexually abused by David.

In January 1997, during play therapy Samantha stated Steven had been giving her inappropriate touches. The parents had disregarded the recommendations of social workers to keep the children safe, such as teaching the children about personal space and keeping them fully dressed. DHS issued a second founded report of denial of critical care.

Samantha and Steven were placed in foster care in April 1997. The court found both parents minimized or denied the sexual abuse existing in the family and were resistive to parental responsibilities to protect the children. Steven was adjudicated to be a child in need of assistance under sections 232.2(6)(c)(2), (d), and (f).

Sandra began to attend a sexual abuse program. She completed a parenting course, a domestic violence advocacy program, and participated in individual counseling. Sandra suffered a head injury as a child and has memory problems. She has been diagnosed with an adjustment disorder with depression and anxiety. David participated in a parenting class, a domestic violence group, a sexual perpetrator's program, and individual counseling. David has been diagnosed with an adjustment reaction with mixed emotional features and dysthymia.

In October 1997 Steven revealed to his foster parents he had been sexually abused by David. Visitation with David was suspended. Because Steven did not repeat his statement, the child abuse report was initially unconfirmed. Later, Steven disclosed his abuse to a social worker. DHS issued a founded report of sexual abuse against David. David discontinued his participation in services.

Sandra continued to attend supervised visitation. Steven expressed anger at Sandra because he had told her about the abuse by David, but she did not do anything. Sandra's visits were decreased to once per week in April 1998 due to Steven's behavioral problems. In July 1998, visits were further reduced to every other week. The parents later separated and planned to divorce. However, they continued to live in the same trailer park.

The children did well in foster care. The children had been withdrawn and non-responsive, but became more talkative while in foster care. They attend play therapy. Steven was diagnosed with an adjustment disorder and he participates in individual therapy. The children are considered to be adoptable.

In August 1998, the State filed a petition to terminate Sandra and David's parental rights to Samantha and Steven. The juvenile court concluded the children could not be returned to the custody of their parents. To do so would expose them to a high risk of physical, sexual, and emotional abuse and neglect. The court terminated the parents' rights under sections 232.116(1)(d), (e), and (h). Sandra and David have each 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. PERMANENCY HEARING

The parents contend the juvenile court should have held a permanency hearing after the children had been in foster care for a period of twelve months. They ask to have the case remanded for a permanency hearing. The parents did not raise this issue before the juvenile court. We will not consider an issue raised for the first time on appeal, even if it is a constitutional issue. *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa App. 1994).

III. SUFFICIENCY OF THE EVIDENCE

David claims the State did not present sufficient evidence to show the children could not be returned to his care, which is an element of section 232.116(1)(e). We find there is clear and convincing evidence the children could not be safely placed in David's care. Two of David's children have stated they were sexually abused by him. David has not completed treatment for sexual perpetrators. Furthermore, David quit services in November 1997 and had no further contact with DHS. David's parental rights were properly terminated under section 232.116(1)(e).

Sandra also claims there is not sufficient evidence in the record to support termination of her parental rights. She believes Steven's allegation of sexual abuse by David was unconfirmed and unfounded. Because she does not believe Steven's statements he was sexually abused by David, it is unlikely she would be able to keep the children safe if they were returned to her care. Although Sandra stated she had separated from David, they continued to live near each other in the same trailer court. Sandra's parental rights were properly terminated under section 232.116(1)(e).

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 App. 1996). Because we have determined the parents' parental rights were properly terminated under section 232.116(1)(e), we do not need to address their claims regarding sections 232.116(1)(d) and (h).

IV. REASONABLE EFFORTS

The parents assert the State did not engage in reasonable efforts to reunite them with the children. Reasonable services must be provided to attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa App. 1997) Neither parent requested any other, different, or additional services prior to the termination hearing. Thus, they have not preserved this issue for our review.

We affirm the decision of the juvenile court which terminated the parental rights of David and Sandra to Samantha and Steven.

AFFIRMED.