IN THE COURT OF APPEALS OF IOWA

No. 8-443 / 97-2159

IN THE INTEREST OF T.F., Minor Child,

L.F., Mother,

Appellant.

FILED
AUG 28 1998
CLERK SUPREME COURT

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Associate Juvenile Judge.

The mother of minor child T.F. appeals a district court order terminating her parental rights. **AFFIRMED.**

Mary E. Kennedy, Waterloo for appellant.

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

Timothy D. Ament of Gartelos, Wagner & Ament, Waterloo, guardian ad litem for minor child.

Considered by Cady, C.J., and Streit, and Vogel, JJ. Mahan, J., takes no part.

CADY, C.J.

Laura is the mother of Toyreon, who was born in April 1996. Toyreon's father has not been involved in his life, and is not part of this appeal.

At the time of Toyreon's birth, Laura was sixteen years old, and had been adjudicated to be a child in need of assistance (CHINA). Laura's mother had died several years earlier. As a result of a wrongful death suit, a bank in Illinois holds $1.2 million in trust for Laura, which she will receive when she turns eighteen. Laura has not had any contact with her father for many years. In the CHINA proceedings involving Laura, she was placed in the foster home of Caprice.

In July 1996, the Department of Human Services (DHS) received a report Laura and Toyreon were not living in the home of Caprice, but were living in the home of Irma. Irma is the mother of Laura's boyfriend, James. Social workers found Irma's home to be unsanitary and filled with roaches. Also, gang members were sometimes in the home. Laura was returned to the home of Caprice. She kept returning to Irma's home, however, even though she was advised it was not suitable for Toyreon. DHS issued a founded report of denial of critical care due to Laura's decision to live with Irma. A second founded report was issued because both Laura and Toyreon tested positive for exposure to cocaine.

In August 1996, the juvenile court ordered Toyreon placed in foster care, with Laura placed in the same home. Laura and Toyreon were then placed with Mary.

Toyreon was adjudicated to be a CHINA pursuant to Iowa Code sections 232.2(6)(b), (c)(2), and (o).

Laura was very immature and would not accept responsibility for Toyreon. She spent most of her time away from the home. In September 1996, Laura began to attend parenting skills sessions and a young parents group. Laura had a psychological examination and was diagnosed with an adjustment disorder.

In February 1997, Laura ran away from Mary's home. After she was found, she was placed in a youth shelter. In March 1997, Laura was placed in the foster home of Bea, where she was separated from Toyreon. Laura ran away from Bea's home on several occasions. In April 1997, Laura tested positive for the presence of marijuana. DHS attempted to place her in a youth shelter, but she ran away again.

In June 1997, the CHINA petition regarding Laura was dismissed because Laura was not amenable to services. With the end of her CHINA proceedings, the State could no longer dictate where Laura was to live. With regard to Toyreon's case, the State filed a petition to terminate Laura's parental rights to Toyreon.

Later in June 1997, Laura contacted DHS. She began to attend supervised visitation with Toyreon. These visits went well. Parenting skills sessions were reinitiated. An attorney obtained some money from the trust fund for Laura's living expenses. She lives in a duplex with James. She is presently employed at McDonald's and working to obtain her GED.

Toyreon has remained in the foster home of Mary. He has done very well in this placement. Mary is interested in adopting him.

The juvenile court terminated Laura's parental rights to Toyreon pursuant to sections 232.116(1)(c) and (g). The court noted Laura acted very immature during the trial. The court found she did not have the ability to parent Toyreon and there was not a reasonable likelihood she would be able to learn sufficient parenting skills in the near future. Laura has appealed.

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

II. Laura contends the State did not engage in reasonable efforts to reunite her with Toyreon. She asserts DHS abandoned her, forcing her to seek shelter anywhere she could and to rely on hand outs. She claims DHS could have helped her access her trust fund earlier, and prevented her from having to live as a teen-age "bag lady."

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). We could find no evidence Laura requested additional services prior to the termination hearing. Thus, we determine she has not preserved this issue for our review.

III. In the alternative, Laura claims she received ineffective assistance due to her counsel's failure to request additional services for her prior to the termination hearing. She asserts she could have received grief counseling, budget counseling, assistance in housing, counseling for past abuse, and culturally specific services.

Due process requires counsel appointed in a termination proceeding to provide effective assistance. *In re J.P.B.*, 419 N.W.2d 387, 390 (Iowa 1988). We apply the same standard adopted for counsel appointed in a criminal proceeding. *Id.* A party claiming ineffective assistance of counsel must show (1) counsel's performance was deficient, and (2) actual prejudice resulted. *In re D.P.*, 465 N.W.2d 313, 316 (Iowa App. 1990).

Laura has failed to show her counsel's performance was deficient for failing to request additional services. DHS did provide Laura with adequate housing in foster care, but Laura refused to stay there. Also, DHS was in the process of setting up grief counseling when Laura ran away and was unavailable for services. As to other services, Laura was not cooperative or was unavailable throughout most of the case. She showed little interest in Toyreon until after the petition to terminate parental rights was filed. For these reasons, we conclude the services offered by the State were reasonable under the circumstances presented by the case.

IV. Laura contends the State failed to present clear and convincing evidence to support termination of her parental rights. She claims the State has not shown Toyreon could not be returned to her care. Laura points out she has a home, a job, and will have an adequate income in the future due to the trust fund.

There is clear and convincing evidence in the record to show Toyreon could not be returned to Laura's care. Laura is still very immature and tends to make irresponsible decisions. Laura was not interested in providing day-to-day care for Toyreon when she had the opportunity. We recognize Laura has made recent progress after the petition to terminate her parental rights was filed. We find her progress is too little, too late.

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 A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1996). The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In re D.A.*, 506 N.W.2d 478, 479 (Iowa App. 1993) Children simply cannot wait for responsible parenting. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). Toyreon should not be required to wait any longer for Laura to become a responsible parent.

We affirm the decision of the juvenile court.

AFFIRMED.