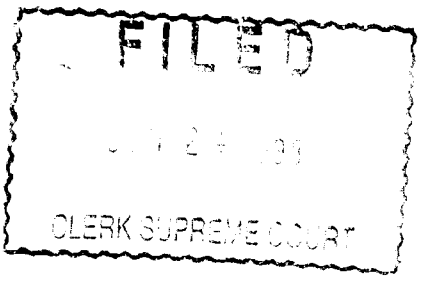
IN THE COURT OF APPEALS OF IOWA

No. 8-245 / 97-2160



IN THE INTEREST OF T.W., H.W., and B.W.,
Minor Children,

D.W.-L., Mother,
Appellant.

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

The mother appeals the juvenile court order terminating her parental rights.

AFFIRMED.

Sara Kersenbrock, Waterloo, for appellant-mother.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Linda Myers, Assistant County Attorney, for appellee-State.

R. Allen Corzine of Pieters, Pieters & Corzine, Waterloo, guardian ad litem for minor children.

M.A., pro se, Waterloo, grandmother.

Heard by Cady, C.J., and Streit and Vogel, JJ.

VOGEL, J.

Donna is the mother of Terenia, born in October 1992; Hayley, born in October 1993; and Brenna, born in January 1995. On July 24, 1995, the children were adjudicated in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2) and (g) (1995), by stipulation of the parties. The children remained with Donna until February 1996, when they were removed by court order and placed in foster care.

In April 1996, the children were placed with their maternal grandmother, Marjorie A. During this time Donna received numerous services to facilitate reunification. She was provided prescription medication for a major depressive disorder, but did not diligently take her medication. She also participated in unsupervised visitation with the children, but was considered slow in making progress.

In early 1997, the State requested modification of custody to remove the children from Marjorie's home. The court found Marjorie was an impediment to reunification and on February 6, 1997, ordered that the children be placed in foster care with continued day and overnight visitations for Donna.

In April 1997, the court temporarily suspended visitation, in part because of Donna's failure to supervise and provide medication. In May 1997, the court ended overnight visitation altogether but granted Donna supervised visitations in her home with no more than two of the children at one time.

On May 13, 1997, the State filed a petition to terminate Donna's parental rights. The court ordered a home study on Donna's new husband, Kevin L., but denied a change of venue to his resident county and denied continuance of the termination proceedings.

After trial in September of 1997, the court found that the children could not be returned to Donna's care and terminated her parental rights pursuant to Iowa Code section 232.116(1)(c),(e), and (g). The court further rejected placement with Marjorie.

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 by proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern in the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Reunification/Best Interest of the Children. Donna contends the court erred in terminating her parental rights because she did not receive adequate services and that the best interests of children require continuation of the parent-child relationship. She further contends that Bobbi O'Brien, a Department of Human Services (DHS) social worker, had her own agenda and placed the children on the fast track to termination. The guardian ad litem "reluctantly" supports the termination due to the passage of time, but has serious concerns about the actions of O'Brien.

We find only weak support in the record to support the allegations of improper motivation or behavior on the part of the DHS worker. We further note that Donna made no motion to the juvenile court to replace O'Brien, and there is no evidence on the record to support Donna's allegations that O'Brien "coached" service providers to affect termination.

We also note that Donna received at least fourteen different services from approximately twenty-one different service providers from October of 1994 until September of 1997, including medical and therapeutic care for herself and the children, day care, housing assistance, vocational rehabilitation and parenting education. Furthermore, Donna did not raise the issue of lack of reasonable services to the juvenile court and therefore failed to preserve it for appellate review. *See In re D.A.W.*, 552 N.W.2d 901, 903 (Iowa App. 1996).

We find there to be clear and convincing evidence in the record to support termination. The juvenile court, recognizing the efforts of so many professionals in the common goal of assisting and reunifying this family, stated: "The Court has rarely seen a case where so many have done so much over so long a period of time and so little has been ultimately accomplished." The court found that the conditions in Donna's home vacillated and that Donna minimized her own responsibility for the removal of the children. The court noted that Donna has difficulty responding to the children's problems and was contentious when challenged.

A review of Donna's past performance leads us to find that it is not in the best interests of the children to return their mother in the future. *See In re L.L.*, 459 N.W.2d 489, 493-94 (Iowa 1990). We affirm the juvenile court in terminating Donna's parental rights.

III. Placement with Grandmother. Alternatively, Donna contends the court should have entered a permanency order granting Marjorie custody of the children. The State questions whether Donna has standing to assert this issue and alternatively argues that placement with Marjorie is not in the long term best interests of the children.

While acknowledging Marjorie's efforts to care for the children, the juvenile court had several concerns about permanent placement. Beyond Marjorie's animosity toward and unwillingness to cooperate with service providers, the court further referenced her "controlling, demeaning and emotionally abusive" relationship with Donna. Furthermore, one service provider testified that Marjorie told her she would return the children to Donna if she got custody. We share the juvenile court's concerns about Marjorie and agree that placement with her is not in the children's best interests.

The children are flourishing in foster care with a family who is likely to adopt them together. We find that continuation of this arrangement is in the long term best interests of the children and therefore affirm the decision of the juvenile court.

AFFIRMED.