

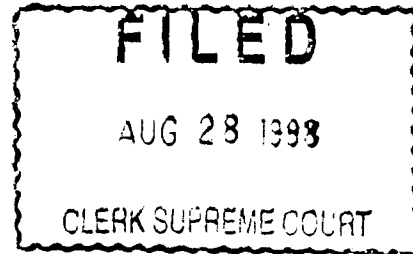
IN THE COURT OF APPEALS OF IOWA

No. 8-385 / 97-2360

IN THE INTEREST OF V.K.,
Minor Child,

R.K., Mother,

Appellant.



Appeal from the Iowa District Court for Scott County, Nancy S. Tabor,
Associate Juvenile Judge.

The mother appeals the order terminating her parental rights to her minor
daughter. **AFFIRMED.**

Scott H. Walters, Davenport, for appellant.

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

Jeno Berta, Davenport, guardian ad litem for minor child.

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

MAHAN, J.

Rhonda is the mother of Valerie, born in February 1989, and Thomas, born in January 1990. The father of Valerie is Kenneth. He has not been a part of Valerie's life and is not a party to this appeal. The father of Thomas is Edward. He has been involved with Rhonda since 1989 and has acted as a father to both children.

This case involves only Valerie. In May 1994, the Department of Human Services (DHS) became involved with the family due to reports Valerie was obsessed with food. Rhonda and Edward received services for two months, but no further action was taken.

DHS became involved with the family again in May 1995, when Valerie's elementary school reported she had strange eating habits and a poor growth pattern. Valerie had not gained any weight over the past two and one-half years. Valerie was diagnosed with psychosocial dwarfism, which is a condition caused by a lack of nurturing in the home.

She was sent to the University of Iowa Hospital Clinic, where she gained five pounds in three weeks. Valerie revealed she had been sent to bed when she came home from school and was only allowed to eat after everyone else went to sleep. Even then, she was only allowed a small dinner. Valerie could have no snacks and no second helpings. While Valerie was in the hospital, Rhonda visited infrequently, and then yelled at Valerie when she did visit.

After Valerie was released from the hospital in November 1995, she was placed in a foster home. She was adjudicated to be a child in need of assistance under Iowa Code sections 232.2(6)(b), (c)(2), and (g).

Rhonda received in-home family services. Rhonda, Edward, and Thomas lived in a home with Edward's sister Rose, Rose's husband, Rose's daughter, and a family friend. Social workers reported difficulty in providing services due to the chaotic atmosphere of the home. Rhonda allowed Rose to discipline Thomas by spanking him. Rhonda, Edward, and Thomas finally moved out of this home in December 1996.

Edward had a substance abuse evaluation which recommended inpatient treatment for alcohol. Edward entered treatment in January 1996, but was discharged due to his continued use of alcohol. Rhonda and Edward were to begin parenting class in February 1996, but failed to attend the classes. In September 1996, Rhonda began to receive in-home parenting skill development services. Edward has had no visitation with Valerie since the Fall of 1996. Rhonda provided inconsistent parenting during visitation. Rhonda has borderline intellectual functioning.

Valerie needs a stable environment in order for her to continue growing. She has progressed very well in foster care. She has gained weight and grown several inches. She is doing better in school. Valerie attends individual therapy. She has been diagnosed with attention deficit hyperactivity disorder and takes medication for

this disorder. Valerie has remained with the same foster family since November 1995. This family would like to adopt her.

In June 1997, the State filed a petition for termination of parental rights. The juvenile court found Rhonda did not understand Valerie's special needs and did not have the ability and skills necessary to meet those needs. The court terminated Rhonda's parental rights pursuant to sections 232.116(1)(d) and (e). Rhonda 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 children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Rhonda contends the State did not sufficiently show Valerie could not be returned to her care, which is an element of section 232.116(1)(e). She asserts when they lived with Rose, Rose was in charge of the household and she would not let Valerie eat with the others. Rhonda was afraid to stand up to Rose. Rhonda points out she no longer lives with Rose. She also states she has now learned to be assertive and would never again let anyone abuse Valerie.

We find there is clear and convincing evidence Valerie could not be returned to Rhonda's care. Rhonda has had a hard time understanding why Valerie was

removed from her care. She denied there was a problem until shortly before the termination hearing. Rhonda had difficulty during visitation providing consistent parenting techniques. Rhonda is not able to provide Valerie with the nurturing environment she needs in order to grow. We find Rhonda's parental rights were properly terminated under section 232.116(1)(e).

III. When the juvenile court terminates parental rights on more than one statutory ground, we need only find ground 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 find termination of Rhonda's parental rights was proper under section 232.116(1)(e), we do not need to address her claims regarding section 232.116(1)(d).

IV. Rhonda claims the State failed to make reasonable efforts to reunite her with Valerie. She believes she was only supplied with very limited services. She believes social workers failed to identify Rose as the problem causing Valerie's psychosocial dwarfism.

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 find no evidence to show Rhonda requested additional or different services prior to the

termination hearing. Thus, we conclude she has not preserved this issue for our review.

We affirm the decision of the juvenile court terminating Rhonda's parental rights to Valerie.

AFFIRMED.

Huitink, J., concurs; Sackett, P.J., specially concurs.

SACKETT, P.J. (concurring specially)

The question in this case is whether there is clear and convincing evidence Valerie cannot be returned to her mother's care.

Ruth Claussen, health aide and family life specialist for Genesis Visiting Nurses, who supervised visits between Rhonda, Edward, and Thomas, testified:

Q. Okay. Based upon your observations of Ed and Rhonda with Tommy, your experience with parents having developmentally delayed children, your review of the reports from University of Iowa Hospitals, the case plans, and reports from Lutheran Social Services, could Rhonda and Ed effectively parent two children even if one of those children had the special needs of Valerie? A. Yes, I do believe they can.

Q. Do Rhonda and Ed possess the parenting skills to effectively provide a nurturing, healthy, and stimulating environment for such a child? A. Yes, right now they do.

Q. Now, even after your review of all the reports and everything that Ms. Lane has asked you, do you disagree with the recommendation that Rhonda's parental rights be terminated with respect to Valerie? A. Yes, I disagree because everybody has -- I figure has a chance in life, and we can monitor it, and I disagree with that.

Valerie has made better progress in a foster home than she did with her mother. One service provider recommended parental rights be terminated based upon Valerie's "bonding and attachment to her foster family, her continued negative comparison of her biological family and her progress under the care of her foster family."

The clear and convincing evidence necessary to terminate parental rights requires more than a mere showing another home may provide a child a better chance.

In addressing the issue of whether there is clear and convincing evidence to terminate, I do not consider comparisons of Rhonda's home and the foster home. I find there is clear and convincing evidence Valerie cannot be returned to her mother's care. In doing so, I give the required deference to the findings of the juvenile court. I, too, would affirm.

The State alleges Valerie's foster parents wish to adopt her. I trust the State and guardian ad litem will immediately work to see this is accomplished.