IN THE COURT OF APPEALS OF IOWA

No. 8-444 / 98-0242

FILED
AUG 28 1998
CLERK SUPREME COURT

IN THE INTEREST OF C.G., M.G., and M.G., Minor Children,

R.G. and T.G., Parents,

Appellants.

Appeal from the Iowa District Court for Clay County, Donovan D. Schaefer, Juvenile Judge.

The parents of three children appeal from the order terminating their parental rights. **AFFIRMED.**

Fred Blake Perkins, Emmetsburg, for appellants.

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

John M. Bjornstad of Cornwall, Avery, Bjornstad & Scott, Spencer, guardian ad litem for minor children.

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

SACKETT, P.J.

Ricky and Tracey, the parents of Melissa, born in July 1992, and twin boys, Christopher and Matthew, born in August 1995, appeal from an order terminating their parental rights. They contend: (1) the juvenile court incorrectly relied on their conviction for child endangerment; and (2) the termination is not in their children's best interests. We affirm.

On February 6, 1996, Christopher and Matthew received DPT immunization shots. The nurse who administered the shots did not see any bruises on Christopher. The next day Tracey called a medical facility in Spencer and told a nurse Christopher was fussy and irritable. Tracey said she believed he might be having a reaction to the shot. Tracey brought Christopher to the hospital at 2:00 p.m. The doctor immediately suspected neurological problems, describing Christopher as essentially comatose. The doctor also observed bruising over his skull and right leg. Questioned about the bruising, Tracey told the doctor Melissa accidentally caused Christopher to roll off their couch the previous afternoon. Tracey said Christopher cried at first, then three hours later gasped for air and his eyes looked dilated. Because the symptoms passed, Tracey did not take him to the hospital immediately.

A CAT scan indicated a subdural hematoma. He also had a fractured femur and retinal hemorrhaging. Christopher was life-flighted to a Sioux Falls hospital. The doctors concluded Christopher was a victim of shaken baby syndrome and had received the life-threatening injuries from violent, repetitive shaking.

On February 8, 1996, the children were removed from their parents' care by emergency order and placed in foster care. On March 11, the parties stipulated the children were in need of assistance. The court entered an order finding they were in need of assistance.

Ricky and Tracey were charged with child endangerment in violation of Iowa Code section 726.6 (1995). In March 1997, they were convicted of child endangerment. In April, the court sentenced them to indeterminate ten-year prison terms.

The State filed a petition to terminate parental rights on September 5, 1997. At the hearing in December 1997, evidence was presented regarding the children's well-being. Matthew is a normal functioning, healthy child. Both Christopher and Melissa, however, are special needs children. Melissa is mildly mentally retarded and, as a result of his injuries, Christopher has brain damage and is blind.

In an order dated January 12, 1998, the court terminated Ricky and Tracey's parental rights pursuant to Iowa Code sections 232.116(1)(e), (g), (h), (i), (l), and (m) (1997). The court found the State presented overwhelming evidence Christopher suffered a life-threatening injury at the hands of his parents, and after the injury occurred, they failed to seek appropriate medical attention, further threatening Christopher's life and long-term health.

We review proceedings to terminate parental rights de novo. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We may review the facts as well as the law and

adjudicate the parents' rights anew. *Id.* Weight is accorded the findings of the juvenile court, particularly with respect to the credibility of witnesses, but they are not binding. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7).

Ricky and Tracey advance the juvenile court's findings in terminating their parental rights were erroneous, as it relied on their conviction of child endangerment even though the State failed to prove which parent caused the injuries or that the innocent parent knew of the abuse. They reason it is not clear which parent is guilty, and terminating both parents' rights wrongfully deprives the innocent parent of his or her parental rights. They rightly contend they were convicted despite the finding of the trial court, sitting as a fact finder, there was not sufficient evidence to show who inflicted the injury and whether the parents knew the child was being harmed. They further contend the juvenile court should not have decided the case until the appeal of their conviction for child endangerment is resolved. We disagree with the parents that the finding of or disposition of the criminal case is controlling.

In contrast with the high "reasonable doubt" standard of proof in a criminal trial, the grounds for termination must be proven by clear and convincing evidence. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997); *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa App.1995). If the juvenile court terminates parental rights on multiple statutory grounds, we need only find grounds to terminate parental rights under one of the sections cited by the juvenile court in order to affirm its ruling. *In re A.J.*, 553

N.W.2d 909, 911 (Iowa App. 1996). There is clear and convincing evidence to support termination under Iowa Code section 232.116(1)(h). We affirm on this ground.

Ricky and Tracey also contend it is not in the children's best interest to terminate the parental rights of an innocent parent. The record supports a finding both parents pose a threat to the children. We find no merit to this argument.

AFFIRMED.