IN THE COURT OF APPEALS OF IOWA

No. 7-052 / 96-2040

FILED
MAR 23 1997
CLERK SUPREME COURT

IN THE INTEREST OF C.M.L., Minor Child,

M.L.M., Mother,
Appellant.

Appeal from the Iowa District Court for Sioux County, Brian L. Michaelson, Associate Juvenile Judge.

The mother, M.L.M., appeals a district court order terminating her parental rights to her minor child, C.M.L. **AFFIRMED.**

James H. Pickner of the Smith Law Office, Hawarden, for appellant.

Thomas J. Miller, Attorney General, Diane M. Stahle, Special Assistant Attorney General, and Lloyd W. Bierma, Assistant County Attorney, for appellee State.

John C. Polifka, Sioux City, guardian ad litem for minor children.

Matthew R. Metzgar, Hawarden, for maternal grandmother.

Considered by Habhab, C.J., and Huitink and Vogel, JJ.

VOGEL, J.

Christopher was born on November 10, 1994, to Mindy.[1] Her parental rights were terminated by order dated October 25, 1996. Mindy appeals.

Scope of review. Appellate review of termination proceedings is de novo; we may review the facts as well as the law and adjudicate the parents' rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We accord weight to the findings of the juvenile court, particularly with respect to the credibility of witnesses. *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).

I. Termination. Mindy's parental rights were terminated under Iowa Code section 232.116(1)(g). She contends there is insufficient evidence under subparagraph (g)(4) to support the juvenile court's finding that termination was justified. The fourth element under this code section provides:

> There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Id. The fourth element "is met when the child cannot be returned to the parental home because the definitional grounds of a child in need of assistance, Iowa Code section 232.2(6), exist." *In re R.R.K,* 544 N.W.2d at 277 (Iowa App. 1995) (quoting *In re A.M.S.*, 419 N.W.2d 723, 725 (Iowa 1988)). If any one of the grounds listed

---

[1]His father was listed as Brian, who has denied paternity. He did not participate in the termination proceedings. His parental rights were also terminated but he does not appeal.

in section 232.2(6) can be proven by clear and convincing evidence, there is a sufficient basis for termination. *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990)

II. Supporting facts. Approximately one week after Christopher's birth, his attending physician noted that Christopher had failed to gain weight and there appeared to be poor maternal bonding. A public health nurse was assigned to assist Mindy. The nurse was concerned that Mindy had no stable housing for several weeks after Christopher's birth and that she did not understand infant care, including feeding and safety concerns. Mindy was also very rough when handling Christopher. The nurse made a referral to the Department of Human Services (DHS). Mindy was placed in the Family Preservation Program, an intensive in-home program lasting up to forty-five days.

Mindy made no improvements during the forty-five day session. She was observed yelling and screaming at Christopher as well as expecting Christopher to speak at two months of age. In February 1995, Family Centered Services were implemented in order to continue Mindy's parental training and to find her a suitable residence. Christopher was adjudicated a child in need of assistance. Mindy continued to be uncooperative with service providers. Despite warnings about the dangers of shaken baby syndrome, Mindy continued to shake Christopher. At one point, Mindy threatened to kill herself and Christopher if termination proceedings were initiated.

In May 1995, Mindy and Christopher were placed in the Villa Maria program, a residential in-home treatment center which provides a comprehensive program of parenting skills, vocational rehabilitation, and therapy. Mindy underwent a psychological evaluation. The examining physician noted Mindy had a severe personality disorder and possible adult attention deficit disorder. Workers expressed concern over Mindy's explosive temper and the manner in which she handled Christopher. Despite taking medication, Mindy's rough treatment of Christopher resulted in her being asked to leave Villa Maria. Christopher was shortly thereafter placed in foster care. At the time of the termination hearing, Christopher continued in foster care and was thriving.

In July 1995, Mindy married Dave, a named perpetrator in a founded child abuse case. Dave had also lost his parental rights to two of his children. Mindy underwent another psychiatric examination. She reported talking to dead spirits, an ability to read tarot cards and predict the future. Mindy was diagnosed as suffering from an impulse disorder as well as borderline personality disorder with a history of seizure. She also maintained that Christopher was not actually hers, but she was merely looking out for him while a friend was away.

We consider Mindy's mental disability when determining whether her child is neglected to the point where his interest and welfare require termination. *In re J.W.D.*, 456 N.W.2d 214, 218 (Iowa 1990). We find there is substantial evidence in

the record to support the juvenile court's findings, and affirm the termination of Mindy's parental rights.

We have considered the other arguments and find them to be without merit.

AFFIRMED.