FILED
JAN 23 1995
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 4-614 / 94-1263

IN THE INTEREST OF M.B., A Minor Child,

J.B. and D.B., Parents,

Appellants.

Appeal from the Iowa District Court for Pottawattamie County, James S. Heckerman, Associate Juvenile Judge.

Parents appeal from an order terminating their parental rights pursuant to Iowa Code section 232.116(1)(g) (1993). **AFFIRMED.**

Clarence B. Meldrum, Jr., Council Bluffs, for appellants.

Bonnie J. Campbell, Attorney General, Gordon E. Allen, Deputy Attorney General, Judy Sheirbon, Assistant Attorney General, Richard D. Crowl, County Attorney, and Martha Heinicke, Assistant County Attorney, for appellee State.

Roberta J. Megel, Public Defender, Council Bluffs, for minor children.

Considered by Hayden, P.J., and Habhab and Huitink, JJ.

HABHAB, J.

J.B., the father, and D.B., the mother, are the parents of M.B. Both J.B. and D.B. are low functioning individuals, with J.B. being the more capable of the two. D.B. gave birth to M.B. on April 22, 1992, without knowing she was pregnant. The Visiting Nurses Association and the department of human services (DHS) had concerns about D.B.'s ability to care for her baby.[1]

On April 28, 1992, service providers found J.B. and D.B.'s home roach-infested, filthy, and unsafe for an infant. However, M.B. was allowed to stay because J.B. was present and cleaning. On April 30, M.B. was found alone with D.B. and the house was still unsanitary. M.B. was removed on an emergency basis. She was running a fever and had not gained any weight since originally leaving the hospital.

On May 7, 1992, a temporary removal hearing was held. J.B. and D.B. recognized M.B. could not be returned to their home in its present condition. It was apparent at this time D.B. was not able to care for M.B. alone. On May 29, 1992, M.B. was adjudicated a child in need of assistance (CINA). The parents stipulated they had provided inadequate shelter. M.B. remained in foster care. J.B. and D.B. were granted supervised visitation. In-home therapy and parent education were ordered.

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1. J.B. and D.B. had their parental rights to a previous child terminated prior to the birth of M.B.

A dispositional order was filed on July 9, 1992. The order noted D.B.'s psychological evaluation indicated her impulsiveness and anger problems made her a risk to hurt M.B. out of frustration. J.B.'s evaluation indicated he suffered from posttraumatic stress disorder and, though he was better able to parent, he is somewhat immature and irresponsible. Further, it was noted he could not adequately compensate for D.B.'s deficiencies in parenting. J.B. and D.B. were ordered to receive parent skills development training, as well as family and/or individual therapy. Supervised visits were continued.

Review orders were filed on January 6 and June 16, 1993. There had been no progress in the couple's parenting skills. In March 1993, J.B. was specifically told he must participate in the parenting program. In the June 16 review order, the juvenile court noted that J.B. stated he knew D.B. is unable to provide adequate parenting for M.B. and that he must do so. The court also noted that, while J.B. has some parenting skills, he had shown no progress in providing for M.B.'s safety, nor had he implemented any knowledge learned in parent education concerning the home environment. During one visit M.B. had been scalded when D.B. attempted to bathe her. J.B. testified that he would protect M.B., but he also testified that he often did not interfere with D.B. to avoid upsetting her.

A review hearing was held on December 3, 1993. In a February 8, 1994, order, the court described J.B.'s

parenting style as sitting on the couch and telling D.B. what to do. The court again noted that no significant progress in J.B. and D.B.'s parenting skills had been made. Visits between parents and child remained supervised and J.B. and D.B. were to continue receiving therapy and parent education.

A petition to terminate J.B. and D.B.'s parental rights was filed on March 31, 1994.

The parents have received 400 hours of services over the two-year period since M.B. was adjudicated CINA. At the termination hearing, the director of parent education testified all visual, epithetic and auditory methods to teach the parents how to safely parent have been used, and no progress has been made. The director stated extensive services have been given in the home, in the office, and at a daycare center. The director testified that, despite the measures that have been taken, she did not feel J.B. and D.B. would be able to parent M.B.

The director testified regarding the state of the house and general hygiene matters. She stated rooms were generally unclean and that roaches were frequently found. M.B. has been found playing with medication she discovered laying around. Thumbtacks are used to hold up curtains and lamps are positioned so they can easily be pulled over. Spoiled food is frequently left in the refrigerator, on counters, and on the floor for days at a time. In one instance, J.B. and D.B. brought food for M.B. which was

sour, moldy, and had insects in it. Lettuce and cole slaw were frequently heated up in a microwave oven. While personal hygiene has improved somewhat, proper hygiene is inconsistent.

J.B. testified that, in the last several weeks, he had been more involved in parenting M.B. He testified service providers had talked with D.B. and him, but "mostly it's been just little dinky things." He was willing to quit his job so he could be home to protect M.B. from D.B. He also testified there were safety risks to M.B. in D.B.'s room, and he had not corrected them. "I've tried to get in there but she doesn't like me in her area." D.B. has injured J.B. in the past. She has broken his ribs, kicked him in his bad knee, and thrown things at him when she became angry.

On July 6, 1994, the juvenile court terminated J.B. and D.B.'s parental rights. The parents appeal, contending the State did not adequately focus on J.B. in providing services and, therefore, reasonable efforts at reunification had not been made.

The parental rights were terminated under Iowa Code section 232.116(1)(g) (1993).[2] Of the elements required

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2. The elements required for termination under the subsection are:

g. The court finds that all of the following have occurred:

(1) The child is three years of age or younger.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The child has been removed from the physical custody of the child's parents for at least six months

for termination under this section, only the last element is disputed. This element requires clear and convincing evidence the child cannot be returned to the custody of the child's parent as provided in Iowa Code section 232.102 (1993). Section 232.102 provides a child should not be placed with the parents if doing so would be contrary to the welfare of the child, and reasonable efforts have been made to eliminate the need of removal of the child.

D.B. and J.B. do not dispute D.B. is unable to care for M.B. herself. They contend, however, reasonable efforts were not taken to provide adequate services. D.B. and J.B. suggest M.B. could be returned to their custody under J.B.'s supervision, but for the State's failure to prepare J.B. for this function by failing to provide him with appropriate services.

Review of parental termination proceedings is de novo. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

D.B. and J.B. have received social services totaling 400 direct contact hours in the two years from the time M.B. was adjudicated CINA in 1992 through the time of the termination hearings in 1994. The program services centered around the following: (1) providing basic care

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of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

and safety which included nutrition, food preparation, food storage, personal and household hygiene, diapering and child hygiene; (2) budgeting and financial matters; (3) setting goals and limits for M.B.; and (4) child development and appropriate parenting skills.

In a progress report filed at the time of the termination hearings, social workers noted a number of problem areas and needs which still existed after two years of therapy and instruction. They found J.B. and D.B. failed to seek medical attention when needed and fail to communicate their needs with each other. J.B. and D.B. also needed to further improve their parenting skills. The social workers further found M.B. has increasingly negative behaviors prior to and during sessions with her parents.

The report made rather extensive findings regarding M.B.'s relationship with her parents. M.B. was found to have very negative behaviors toward her parents which have escalated into rejecting behaviors. M.B.'s foster mother has reported M.B. to be very withdrawn after her sessions with her parents and generally has diarrhea after such visits for a few days. The social workers found continued sessions between M.B. and her parents have resulted in increased acting out by M.B. and could be emotionally damaging to M.B.

The report found that although J.B.and D.B. have received extensive teaching in parenting skills, they have been unable to utilize these skills. Problem areas in 1992

continue to be problem areas in 1994. The progress report concluded, and we agree, J.B. and D.B. are unable to be the parents that could nurture, protect, and guide M.B. into adulthood.

We also find J.B. and D.B. have had substantial time in the eyes of the law to obtain sufficient parental skills. M.B. has been in foster care for two years. A child should not be forced to endlessly suffer the parentless limbo of foster care. In the Interest of D.J.R., 454 N.W.2d 838, 845 (Iowa 1990); Long v. Long, 255 N.W.2d 140, 146 (Iowa 1977). "[P]atience on behalf of the parent can quickly translate into intolerable hardship for the children." In the Interest of R.J., 436 N.W.2d 630, 636 (Iowa 1989). We find the extensive therapy and instruction J.B. and D.B. received over the last two years constitutes more than a reasonable effort on the State's part to eliminate the need of the removal of M.B. As a result, we affirm the termination of J.B. and D.B.'s parental rights under Iowa Code section 232.116(1)(g).

AFFIRMED.