IN THE COURT OF APPEALS OF IOWA

No. 7-494 / 97-52

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IN THE INTEREST OF C.F., A.F., and J.B.,
Minor Children,

T.F., Natural Mother,
Appellant,
D.B., Natural Father,
Appellant.

FILED
SEP 24 1997

Appeal from the Iowa District Court for Lee County, Gary R. Noneman, District Associate Judge.

The father and mother of three minor children appeal a district court ruling terminating their parental rights. **AFFIRMED.**

Charles O. Frazier and Steven J. Swan of Frazier Law Office, Keokuk, for appellant mother.

Clinton D. Boddicker of Dickey, Smith & Kultala, Keokuk, for appellant father.

Thomas J. Miller, Attorney General, Gordon E. Allen, Assistant Attorney General, and David Andrusyk, Assistant County Attorney, for appellee State.

W.J. Henson, Keokuk, guardian ad litem for minor children.

Considered by Cady, P.J., Huitink, J., and Habhab, S.J.*
*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1997).

CADY, P.J.

Trudy is the mother of Christina, who was born on August 24, 1985, and Ashly, who was born on January 24, 1988. Trudy and Donald are the parents of Justin, who was born on December 27, 1990. Trudy and Donald appeal a juvenile court decision terminating their parental rights. We affirm on appeal.

Trudy and Donald have cohabited for a number of years. The Department of Human Services (DHS) became involved with the family in November 1994 due to reports of extremely unsafe and unsanitary conditions in the home. The family was living in a trailer house which had no running water or sewer system. The dangers found in the home included garbage, cockroaches, cat feces, broken glass, rotting food, and exposed electrical wiring. Additionally, the parents had problems getting the children to school. When the children came to school they were dirty and had dirty clothes. The children had recurrent problems with head lice. DHS issued a founded report of denial of critical care.

The children were removed from the home and placed in foster care on December 2, 1994, due to the dangerous conditions in the home. The children were adjudicated to be children in need of assistance. In the dispositional order, the juvenile court determined Christina and Ashly should remain in foster care. Justin was placed in the care of his paternal grandmother, Roseanne. The children are developmentally delayed and have been diagnosed with attention deficit hyperactivity disorder. They are considered special needs children.

The juvenile court required the parents to complete parenting and mental health evaluations. They were also required to participate in parent skill development sessions and counseling. The parents were given a list of things to clean and repair in the home. They were allowed to participate in supervised visitation.

The parents completed the parenting and mental health evaluations. They did not participate in counseling or parenting skill development sessions, stating they did not have any problems which needed to be addressed. They did clean up some areas of the home and treated it for cockroaches. Parts of the home remained filled with debris. The parents claimed they did not have sufficient money to address problems such as heat, running water, garbage removal, or functioning appliances, although Donald obtained full-time employment earning $200 per week. The parents did have sufficient money to go bowling every week.

On June 26, 1996, the State filed a petition for termination of the parental rights of Trudy and Donald. The juvenile court found the children could not be returned to the parents' care because they had failed to provide a suitable physical environment for the children. The court also found there had been little improvement in parenting skills. The juvenile court terminated Trudy's parental rights to Christina, Ashly, and Justin under Iowa Code section 232.116(1)(e), and Donald's parental

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rights to Justin were terminated under the same section.[1] Trudy and Donald have each 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 R.R.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Trudy and Donald contend the juvenile court should not have terminated their parental rights. In particular, they claim there was insufficient evidence the children could not be returned to their care. They state they were given a list of ten things they needed to clean or fix before the children could be returned to their care. The parents claim they substantially complied with the items on the list, and the children should have been returned.

On our de novo review, we find there was clear and convincing evidence the children could not be returned to the parents' care. Although there had been improvements, the home was still unsafe and unsanitary. Furthermore, this was not the only requirement the parents needed to meet before the children could be returned to their care. The parents did not participate in parenting skill development sessions

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[1] The parental rights of the father of Christina and Ashly were terminated on the ground of abandonment, under section 232.116(1)(b).

or counseling. They did not believe they had any problems, and therefore, did not progress in being able to meet the needs of the children. We find Trudy and Donald's parental rights were properly terminated under section 232.116(1)(e).

III. Trudy claims she was denied due process by the juvenile court's decision. She asserts DHS set unrealistic standards which set her up to fail, and the agency refused to give her credit for the improvements which were made to the home She believes she was never given a real chance to get the children back.

We find Trudy was given ample opportunity to show she was interested in regaining care of the children. The children had been out of the home for nineteen months when the State filed a petition to terminate parental rights. It was Trudy's choice not to attend parenting skill development sessions or counseling during this time. Also, Trudy failed to address all of the safety concerns which had led to the removal of the children. We find no denial of due process rights.

IV. Donald asserts termination is not in Justin's best interests. Iowa Code section 232.116(3)(a) provides the juvenile court need not terminate parental rights in cases in which a relative has custody of the child. Donald believes it would be better for Justin to be placed in long-term foster care with the paternal grandmother. Donald also asserts the parents would be able to take care of Justin if he were their only child. He claims his parental rights to Justin should not have been terminated even if Trudy loses her parental rights to Christina and Ashly.

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We note section 232.116(3) contains no mandatory language. *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa App. 1993). It is within the sound discretion of the juvenile court, based upon the unique circumstances before it and the best interests of the child, whether to apply section 232.116(3)(a). *Id.; In re J.V.*, 464 N.W.2d 887, 890 (Iowa App. 1990). We consider a child's long-range and immediate best interests. *In re A.B.*, 492 N.W.2d 446, 450 (Iowa App. 1992).

We find no abuse of discretion in the juvenile court's determination it was in Justin's best interests to terminate the parental rights of Trudy and Donald. Justin needs stability due to his special needs. Long-term foster care would not provide him with this stability. We also find no evidence to show the parents could more effectively parent one child rather than three.

V. Donald contends DHS did not provide reasonable services which would aid in the reunification of the family. He claims he did not participate in services because they were only offered when he was at work. He asserts he should have received services to assist him in cleaning the family home.

Reasonable efforts must be provided to attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). Generally, DHS must make reasonable efforts to provide services to eliminate the need for removal. *In re T.C.*, 522 N.W.2d 106, 108 (Iowa App. 1994). In proceedings to terminate parental rights, the reasonableness of services offered by the

State to keep families whole is to be closely scrutinized. *In re C.D.*, 508 N.W.2d 97, 100 (Iowa App. 1993).

We determine the family received reasonable services. The parents did not participate in the services which were offered to them. There was no evidence Donald had asked DHS for assistance in cleaning the trailer home or yard.

After considering all issues raised on appeal, we affirm the decision of the juvenile court terminating Trudy's parental rights to Christina, Ashly, and Justin, and terminating Donald's parental rights to Justin.

AFFIRMED.