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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE INTEREST OF R.T.B. and G.A.B., Children;

E.B., Mother,

Appellant.

Filed March 26, 1985

4-502
83-729

Appeal from the Iowa District Court for Polk County (Juvenile) - Richard A. Strickler and Vincent M. Hanrahan, Judges.

The mother of the children appeals several aspects of the juvenile court proceedings that ultimately transferred custody of R.T.B. and G.A.B. to their father. AFFIRMED.

Ray Sullins, Des Moines, Iowa, for the appellant mother.

Marilyn S. Lantz of the Youth Law Center, Des Moines, Iowa, guardian ad litem for the children.

Thomas J. Miller, Attorney General of Iowa, and Brent D. Hege, Assistant Attorney General, for the appellee State.

Considered by Schlegel, P.J., Hayden, and Sackett, JJ.

SCHLEGEL, P.J.

The mother of the children, E.R., appeals several aspects of the juvenile court proceedings that ultimately transferred custody of R.T.B. and G.A.B. to their father. Specifically, she claims (1) the evidence was insufficient to show that the children were in need of assistance, (2) the evidence was insufficient to justify removal of the children from her custody, (3) the trial court erroneously admitted certain testimony, (4) the notice she received was unconstitutionally vague, and (5) her rights were violated when a probation officer of the juvenile court suspended her visitation rights without notice or hearing. We affirm.

The children in question are brothers born in September 1976 and December 1977. Their parents' marriage was dissolved in 1979, and the children were placed in the mother's custody at that time. However, the father lived with the family intermittently until sometime in 1982.

In May of 1982 the family came to the attention of social workers because of complaints by relatives and others about the mother's bizarre behavior and delusional thinking. The children were removed from the home and placed in the temporary care of their paternal grandparents. In August of 1982 the children were adjudicated to be children in need of assistance. A dispositional order filed in November of 1982 placed the children in their father's custody, provided for visitation by the mother, and specified counseling and services to be offered to both parents.

In August of 1983, E.B. stopped attending therapy. A juvenile court probation officer then refused to allow E.B. to visit her children until she would agree to resume therapy. A hearing was later held on the matter of visitation, and an order was entered that set a new visitation schedule for E.B., with the condition that she continue therapy.

I. Sufficiency of the Evidence. The two children were found to be children in need of assistance under Iowa Code section 232.2(5)(c). At the

adjudicatory hearing, the State had the burden of proving its allegations by clear and convincing evidence. Iowa Code § 232.96(2) (1981). E.B. argues that the State did not present such evidence. Our task is to determine by de novo review whether the evidence is sufficient to establish the ground alleged in the State's petition. In Interest of Long, 313 N.W.2d 473, 482 (Iowa 1981).

E.B. has been diagnosed as having Paranoid Disorder, a condition characterized by suspicion, distrust, and denial. She believed that a conspiracy existed in which several imposters were being substituted for her husband and that her divorce had been caused by the actions of those imposters. She believed that imposter children were being substituted for her own. Further, she believed that someone was trying to poison her children's food, and that unknown intruders came into the home at night and injured her and the children while they slept.

E.B.'s mental problems, standing alone, are not sufficient reason to find the children in need of assistance. Cf. In Interest of O'Neal, 303 N.W.2d 414, 422 (Iowa 1981) (mental problems alone not grounds for termination of parental rights). However, if the children have been exposed to and incorporated in the parent's mental delusions, the effects of such exposure may justify adjudicating the child as needing assistance.

In this case there is no question that the children have been deeply involved in E.B.'s delusions. On two separate occasions she took the children to Broadlawns Hospital to be examined for evidence of possible sexual abuse. In both instances the above allegations were found to be unsubstantiated. In the latter instance, E.B. suspected sexual abuse had occurred because the boys looked as if "they were coming down off sex," and because the younger boy ducked below a window sill whenever a car would pass by the house.

E.B. believed that her children were being abused at night and that someone was trying to poison them. She would sample the children's food and medicine as a precaution against poisoning. There is also some evidence that E.B. talked to the children about the imposter substitutions involving her ex-husband.

E.B.'s delusions apparently have had a substantial negative impact on her children. Dr. John Meidlinger, a child psychologist, examined the boys. He concluded they suffered from "emotional disturbances of a serious nature characterized by a great deal of anxiety and confusion." The children appeared to be abnormally afraid of adults and reluctant to become engaged with either their mother or their father. They instead looked to one another for support, with R.T.B. acting in the parental role.

Dr. Meidlinger also examined E.B.'s interaction with the boys. He concluded that her pattern of interaction could be harmful because it interrupted the children's learning and development processes. He also testified that his examination of the boys showed that their development had been delayed. Dr. Meidlinger did not believe exposure to E.B.'s delusions was healthy. He thought such exposure would lead to a sense of confusion and fear about relationships outside the home. Dr. Meidlinger stated the children needed treatment.

In our de novo review, we find this evidence is sufficient to support a finding that the children were in need of assistance. The transcript of Dr. Meidlinger's testimony shows that he is cautious and conservative in making a diagnosis. We give great weight to his opinion that the boys suffer from serious emotional disturbances. We note that a child assuming a parental role is a factor that indicates the child is in need of assistance. See Long, 313 N.W.2d at 483. We find further support for the court's adjudication in the evidence that E.B. has a difficult time making reasoned decisions about medical care for her children.

E.B. also argues that the State did not present clear and convincing evidence to support the transfer of custody of the children from her to the father. See Iowa Code § 232.102(3) (1981). We reject her argument, which assumes that there was no basis for adjudicating the children as in need of assistance in the first place. The children were in need of assistance. Moreover, E.B. was given the opportunity on May 27, 1982, to have custody of the children returned to her on

the condition that she agree to accept certain services, including psychiatric treatment and a Public Health Nurse. She refused, and remained unwilling to accept the services at the time of the dispositional hearing. In light of that refusal, and the testimony of six other witnesses, the juvenile court properly decided to follow Dr. Meidlinger's opinion and place the boys with their father.

II. Testimony About Other Juvenile Cases. At the dispositional hearing social worker Rosemary Herrick was allowed to testify about her experiences with other cases in which the parents had mental health problems similar to E.B.'s problems. E.B. argues it was error to admit that testimony. We agree.

The only similarity between those cases and the instant case, as testified to by Herrick, was that the mentally ill parents resisted making changes. Herrick's testimony was devoid of other similarities between the cases that would tend to show that her testimony was relevant to any issues involved in this case. Admission of that testimony was error. However, because the testimony was cumulative to other evidence in the record, the error was harmless.

III. Adequacy of the Notice. E.B. challenges the constitutional adequacy of the notice she received in the petitions alleging the children were in need of assistance. She also challenges the notice of the temporary removal hearing. In both instances she claims that insufficient facts were included to support the State's allegations.

We have examined the notices, and find that they meet the requirements for validity as set out in Alsager v. District Court, 406 F. Supp. 10, 22 (S.D. Iowa), aff'd. on other grounds, 545 F.2d 1137 (8th Cir. 1976), and In Interest of Hewitt, 272 N W.2d 852, 857 (Iowa 1978).

IV. Termination of Visitation. E.B.'s final argument is that her rights were violated when a juvenile probation officer suspended her visitation with the children. The suspension occurred without notice or hearing, and the officer acted pursuant to a court order that delegated to him the right to modify E.B.'s visitation "from time to time."

We decline to consider E B 's argument because the issue is moot. A case is considered moot when the issues have become academic so that judgment, if rendered, will have no practical legal effect upon the existing controversy. Dain Bosworth Inc. v Brandhorst, 356 N.W 2d 590, 592 (Iowa Ct App. 1984). This issue became moot when the juvenile court, after notice and hearing, entered an order pertaining to E B.'s visitation That order superceded the action of the probation officer Thus, any judgment on the validity of the probation officer's action would have no practical legal effect upon E.B.'s visitation rights.

AFFIRMED