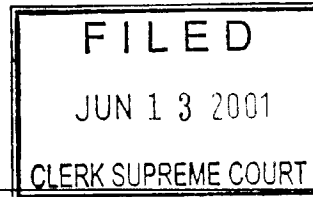


IN THE COURT OF APPEALS OF IOWA

No. 1-310 / 00-936
Filed June 23, 2001

IN RE D.W., Minor Child,

B.N., Mother,
Appellant.



Appeal from the Iowa District Court for Iowa County, Jane F. Spande,
Associate Juvenile Judge.

The mother of minor child D.W. appeals a juvenile court order terminating
her parental rights. **AFFIRMED.**

Carla Garrels Pearson, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Tim McMeen, Assistant County Attorney, for appellee
State.

James E. Claypool of Claypool & Claypool, Williamsburg, guardian ad
litem for minor child.

Christopher L. Jorgensen of John C. Wagner Law Offices, P.C., Marengo,
for father R.N.

Considered by Hayden, P.J., Honsell, and Harris, S.J.*

*Senior judges assigned by order pursuant to Iowa Code section 602.9206

(1999).

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HAYDEN, S.J.

D.W. was born April 19, 1997, and was three years old at the time of trial. B.N. is the natural mother of D.W. She was married to and separated from her husband at the time of D.W.'s conception and birth. She had named three other men as D.W.'s biological father. Each of those persons were excluded as D.W.'s father by way of paternity testing.

B.N. (mother) was committed to the mental health institute at Independence, Iowa. D.W. was removed from his mother's custody and a child in need of assistance petition was filed on August 25, 1998. There was no relative or other suitable placement for D.W. On December 22, 1998, D.W. was adjudicated a child in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c), and (n).

... B.N. is mentally retarded and suffers from the psychiatric condition of adjustment disorder with mixed disturbance of emotions and conduct. B.N. and D.W. lived with Ricky who was a schizophrenic. She permitted Ricky to care for D.W. While in Ricky's care D.W. ate cigarette butts and repeatedly fell off furniture. Ricky took D.W. to a gas station, where he suffered a psychiatric episode, and D.W. was left unattended in the motor vehicle. D.W. had deep bruises and flea bites at the time of his original foster care placement. Although he was sixteen months old, he did not recognize or know how to eat solid food.

D.W. had continuously remained in foster home placement since the emergency removal on August 21, 1998. There was no period of trial home placement.

The department of human services (DHS) prepared a plan to improve B.N.'s ability to safely supervise and protect D.W. This plan took into consideration the mother's own mental health needs. Services were provided to improve the mother's parenting skills and to educate her how to better keep D.W. safe within her home as well as from other persons.

All of the visits between D.W. and his mother have remained supervised to monitor the mother's parenting skills and to protect D.W. D.W. suffers from asthma and other ailments that require medication. The mother cannot read instructions for medication. She merely pours out what she believes is a proper dose without requesting help in reading directions. She does not read label restrictions about storage and restrictions on prescribed medication. B.N. has stopped taking her medication for her psychiatric condition.

B.N. has tried to achieve the objectives of the case plan, but her disabilities make further progress unlikely. As of the date of trial she has had three years of family centered services. The trial court found D.W. would not be physically or emotionally safe in his mother's care without twenty-four hour supervision of the placement.

B.N. had been committed to the mental health institute for the second time at the time of trial.

B.N. has had many boyfriends even though she and her husband are not divorced. Her current boyfriend is the third one since D.W. was placed in foster care. Her present boyfriend came during a visit with (DHS) and became angry and aggressive when not permitted to take part in the visit.

D.W.'s legal father has not had contact with him nor complied with the case plan. There is no bond between D.W. and either his legal or biological father. If there is a bond between D.W. and his mother, it is not strong.

On May 24, 2000 the juvenile court terminated the parent child relationship and parental rights between D.W. his mother B.N., his legal father R.N., and his unknown father. The mother appeals. We affirm.

I. Scope of Review. 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 E.K.*, 568 N.W.2d 829, 830 (Iowa Ct. App. 1997). Our primary concern is the best interest of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa Ct. App. 1996).

II. Sufficiency of the Evidence. Iowa Code section 232.116(1) sets forth the grounds for termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

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

* * *

(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.

In the case of *In re A.M.H.*, 516 N.W.2d 867 (Iowa 1994) the Iowa Supreme Court stated and held:

We recognize that the nature of the process due in parental rights termination proceedings turns on a balancing of three factors: "[T]he private interests at stake, the government's interest and the risk that the procedures used will lead to erroneous decisions." *Lassiter*, 452 U.S. at 27, 101 S. Ct. at 2159, 68 L. Ed. At 649 ;

* * *

Clearly, we have a duty to enforce procedural safeguards contained in Iowa Code chapter 232. Both DHS and the juvenile court have the important function of protecting children who are in need of assistance. However, taking a child away from the care and custody of a parent is of serious consequences. We therefore must carefully observe statutory procedural safeguards.

A.M.H., 516 N.W.2d at 870-71 (citations omitted).

B.N.'s main argument before us is DHS did not consider her current boyfriend as a proper person to help her raise her son. This current boyfriend lives with his mother and his sole income is from mowing yards. He was hostile and aggressive when he appeared at a visit. The service provider felt threatened by his anger and verbal outrage. B.N.'s argument her current boyfriend could be a suitable person to help raise D.W. is without merit. The argument the mother's current boyfriend could be a suitable person to help raise D.W. is being raised for the first time on this appeal. Issues on appeal for the first time are too late. *Long v. Long*, 255 N.W.2d 140, 144 (Iowa 1977).

The record shows B.N. has had many boyfriends. Some of them have had legal problems and some have had mental problems. At the time of trial B.N. and her husband remained married even though separated.

A child should not be forced to endlessly suffer the parentless limbo of foster care. *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990). He or she need not endlessly await the maturity of his or her natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). The crucial days of childhood can not be suspended while parents experiment with ways to face up to their own problems. *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1997). Children simply can not wait for responsible parenting. Parenting can not be turned off and on like a spigot. It must be constant, responsible, and reliable. *In re L.L.*, 459 N.W.2d 489, 495

(Iowa 1990). To keep children in temporary or even long-term foster homes is not in their best interests, especially when the children are adoptable. *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997).

We determine there is clear and convincing evidence in the record to terminate B.N.'s parental rights to D.W. There is no need to remand this case for further investigation or proceedings to determine if B.N.'s current boyfriend would be a suitable person to assist her in caring for D.W.

D.W. has been in foster care since August 1998. It is time for him to have permanency.

We affirm the juvenile court in all respects.

AFFIRMED.

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