IN THE COURT OF APPEALS OF IOWA

No. 0-068 / 99-605
Filed March 29, 2000

FILED
MAR 2 9 2000
CLERK SUPREME COURT

IN THE INTEREST OF
C.W. and J.M.,
Minor Children,

F.B., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

Mother appeals following the termination of her parental rights to her two children. **AFFIRMED.**

Sara Kersenbrock of Kersenbrock Law Office, Waterloo, for appellant.

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

James McCullagh, Cedar Falls, guardian ad litem for minor children.

Kellyann Lekar of Roberts & Stevens, P.L.C., Waterloo, for J.M., father.

David Roth of Gallagher, Langlas & Gallagher, P.C., Waterloo, for M.W., father.

Heard by Mahan, P.J., and Zimmer, and Vaitheswaran, JJ.

000121

VAITHESWARAN, J.

Fredrine appeals the termination of her rights to parent Chavon and Ja'Bria. We affirm.

I. Background Facts and Proceedings

Fredrine is the mother of Chavon, born on October 17, 1995, and Ja'Bria, born on September 4, 1997. Chavon's father is Mark and Ja'Bria's father is Jason. Both fathers physically abused Fredrine.

On June 11, 1996, Fredrine became upset when Mark would not leave the house. She tried to get up and leave and attempted to call 911, but Mark did not let her go and apparently unplugged the phone. Fredrine grabbed a baseball bat and hit Mark on the back of the head. Mark fractured Fredrine's wrist. Fredrine then got some bleach, threw it on Mark and tried to ignite his clothes. Mark countered by trying to ignite other bleach-covered items. During these events, Mark took Chavon from the bedroom to the living room, and placed him on the couch. A portion of these events occurred in the living room.

Police arrested Fredrine and charged her with aggravated domestic assault. Several days later, Chavon was hospitalized because he had lost over one pound in two weeks.

On June 20, 1996, the Department of Human Services sought to have Chavon temporarily removed from the home on the basis of the June 11 incident, two prior incidents of domestic abuse by Mark against Fredrine, Chavon's hospitalization, and Fredrine's depression. The juvenile court granted the application and subsequently ordered that care, custody and control remain with the Department, for placement in foster care.

On June 24, 1996, the State petitioned to have Chavon adjudicated a child in need of assistance. The parents stipulated to this status. On July 16, 1996, the court noted Mark was again in custody on charges he domestically abused Fredrine. The court ordered Chavon to remain in the custody of the Department, ordered family centered services, and imposed a no contact order between Mark and Fredrine. Following a dispositional hearing in September, the court continued the placement, ordered supervised visitation, and recommended mental health services for both parents, as well as supervised living arrangements for Fredrine.

At a review hearing on January 29, 1997, the court ordered Chavon to remain in foster care, granted Fredrine unsupervised visitation for a minimum of two hours, five times per week, and continued the no contact order between Fredrine and Mark. On April 25, 1997, the court granted Fredrine overnight and weekend visitation, after considering the guardian ad litem's statement that Fredrine was cooperating "in every possible respect" with the Department's efforts to reunite her with her son. On September 10, 1997, the court ordered the Department to continue its efforts at reintegrating Chavon into Fredrine's home and reaffirmed the no contact order between Mark and Fredrine.

Ja'Bria was born on September 4, 1997. Approximately six weeks later, Ja'Bria's father, Jason, was arrested after Fredrine reported he hit her with his fist, an ironing board, and a fan, and stated, "I'm going to kill you." Both children were in the home during this incident.

The juvenile court granted the Department's application to have Ja'Bria temporarily removed from the home. On October 24, 1997, the State filed an

amended petition seeking to have Ja'Bria adjudicated a child in need of assistance. The Department also sought to have Chavon again returned to foster care. Following a hearing, the court continued Ja'Bria's placement with the Department and ordered Chavon placed in foster care.

On December 29, 1997, the State petitioned to terminate the rights of Fredrine, Mark, and Jason to parent Chavon and Ja'Bria. Following nearly five days of testimony, the court ratified the parties' agreement to hold the case open for six months. The court again ordered Fredrine to have no contact with Mark and ordered her not to have any contact with Jason. The Department increased visitation between Fredrine and the children and returned the children to her care in early July 1998.

In November 1998, a Department worker visited Fredrine's home and discovered Mark hiding underneath a bed. The court ordered the children returned to foster care and permitted contact between Fredrine, Mark and Jason only in the presence of a counselor or therapist.

On April 5, 1999, the court terminated the parental rights of Fredrine, Mark and Jason, as to Chavon and Ja'Bria. All the parents appealed but Mark voluntarily dismissed his appeal and the Iowa Supreme Court dismissed Jason's appeal as frivolous. Therefore, we will only consider Fredrine's challenge.

II. Scope of Review

Our review of a termination proceeding is de novo. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa App. 1999). The grounds supporting termination must be proven by clear and convincing evidence. *Id.* Our primary concern is the best interests of the child. *Id.*

[redacted] argues the court erred in terminating her parental rights under Iowa Code sections 232.116(1)(c), (g), and (h). We have stated, "[w]hen the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm." *Id.*

Iowa Code section 232.116(1)(c) (1997) allows for the termination of parental rights when the court finds both of the following have occurred:

> (1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.
>
> (2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstances which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Fredrine concedes the first element is satisfied. She premises her challenge on the second prong, contending the circumstances which led to the CINA adjudication have been corrected. We disagree. Both children were removed following violent incidents in Fredrine's home. Although Fredrine worked to curb her own violence, she did little to divest contact with the men who precipitated the domestic turbulence. She repeatedly violated no contact orders by regularly speaking to Mark on the telephone, permitting him to visit her in her home, and by allowing him direct, unsupervised access with her children. Just when the prospects for permanent reunification appeared imminent, a State worker discovered Mark in Fredrine's home.

Similarly, Fredrine continued to have contact with Jason, in violation of a no contact order. Indeed, she admitted to a Department worker that she resumed an intimate relationship with him after the order was imposed. Notably, a Department worker reminded Fredrine of the order on a weekly basis and required her to acknowledge in writing that she knew of the order. However, as the juvenile court stated in an initial ruling, Fredrine exhibited a "desperate reliance on others for survival." We conclude that, despite receipt of extensive reunification services, Fredrine continued to depend on the violent men who triggered removal of her children.

Fredrine nonetheless maintains that these prohibited contacts had little effect on the children. The record suggests the contrary. At the time of termination, Chavon had begun to exhibit behavioral problems. Just six weeks after Ja'Bria's birth and more than sixteen months after her first child was removed, Fredrine exposed her to the same type of domestic violence that led to the first CINA adjudication. We have stated, "[w]e must reasonably limit the time for parents to be in a position to assume care of the children because patience with parents can soon translate into intolerable hardship for the children." *In re E.K.*, 568 N.W.2d 829, 831 (Iowa App. 1997). We find clear and convincing evidence under Iowa Code section 232.116(1)(c) to support the juvenile court's order terminating Fredrine's rights to parent Chavon and Ja'Bria. Accordingly, we affirm.

AFFIRMED.