IN THE COURT OF APPEALS OF IOWA

No. 3-575 / 93-1054

FILED
JAN 25 1994
CLERK SUPREME COURT

000145

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

T.L., Mother,

Appellant.

Appeal from the Iowa District Court for Scott County, Arlen J. Van Zee, Judge.

Mother appeals the termination of her parental rights to her minor child. **AFFIRMED.**

Janice Hanrahan Roemer and Carol Walker, Davenport, for appellant.

Bonnie J. Campbell, Attorney General; John M. Parmeter, Special Assistant Attorney General; Judy Sheirbon, Assistant Attorney General; and Gerald P. Schutte, Assistant County Attorney, for appellee.

Stephen P. Wing of Dwyer, Wing, Zamora, Taylor & Walters, Davenport, guardian ad litem for minor child.

Heard by Oxberger, C.J., and Habhab, J., and Perkins, S.J.*

*Senior judge from the 5th Judicial District serving on this court by order of the Iowa Supreme Court.

PERKINS. S.J.

T.L. is the mother of Mary, who was born on May 17, 1982. T.L. is also the mother of two other children, Ruth and Rebecca. The present appeal involves only Mary. The mother's parental rights to Rebecca were terminated in a separate proceeding and Ruth is in a guardianship. The parental rights of Mary's father were terminated in 1991.

In 1986, T.L. was caught shoplifting. She claimed the Holy Spirit told her to take the items for the benefit of her children. T.L. was then hospitalized in the psychiatric unit of Mercy Hospital in Davenport. T.L. was diagnosed as having a schizo-affective disorder, bipolar type. She has manic episodes, grandiose delusions, and depressive episodes. She was placed on medication to help control her delusional ideas.

Mary was determined to be a child in need of assistance (CINA) in August 1986. The court found T.L. had not provided adequate food and shelter for the children and was unable to properly supervise them. Mary was placed in foster care.

T.L. made substantial progress while on medication. On May 11, 1990, Mary and Ruth were returned to T.L.'s care. Unfortunately, the reunification project was unsuccessful. T.L. demonstrated an inability to supervise the children and allowed them to dominate her. Furthermore, T.L.'s religious preoccupations increased. She would tell caseworkers that God would punish those who

were interfering in her life. At one point she stated that the children were sanctified and pure and ready to meet Jesus. Reportedly, she then held a butcher knife under Mary's chin which caused a slight cut.

The children were removed from the mother's care on July 5, 1990, and returned to foster care. Mary has been diagnosed as having an induced psychotic disorder, which is based on her relationship with her mother. At times Mary mimics her mother's behavior, such as chanting or calling her foster father Satan's helper. Mary's behavior tends to be worse shortly before a visit with her mother. Dr. Hilliard, Mary's therapist, felt that her behavior problems were emotionally related to the trauma of visits with her mother.

In February 1993, Mary informed her mother that she wanted to be adopted by another family. When questioned by Bev Miller, her caseworker, Mary stated that she understood that termination of parental rights meant she would not have contact with her biological mother. She remained adamant that she wanted to be adopted by a family. She stated she needed to let go of her mother.

On March 2, 1993, Mary's guardian at litem filed a petition to terminate T.L.'s parental rights. A hearing was held. The juvenile court issued its decision on June 11, 1993. The court found there was clear and convincing evidence Mary could not be returned to T.L.'s care at that time. The court found that Mary was very confused over the

lack of permanency in her life and over having two mothers and that it was in her best interests to terminate T.L.'s parental rights. T.L. has appealed.

Our scope of review of proceedings to terminate parental rights is de novo. In re L.L., 459 N.W.2d 489, 493 (Iowa 1990). We give weight to the findings of the juvenile court, especially regarding the credibility of witnesses. In re A.R.S., 480 N.W.2d 888, 890 (Iowa 1992). The critical question, of course, is the best interests of the child. Id.

The juvenile court terminated the mother's parental rights pursuant to Iowa Code sections 232.116(1)(e) and (f) (1993). The mother contends the State failed to prove section 232.116(1)(e)(4), which requires clear and convincing evidence that the child cannot be returned to the parent's custody. She also claims the State failed to prove section 232.116(f)(3), which requires clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation, and section 232.116(f)(4), which requires clear and convincing evidence that an additional period of rehabilitation would not correct the situation. The mother claims that her mental illness, standing alone, should not be the basis for the termination of her parental rights.

The termination of a parent-child relationship requires clear and convincing evidence. In re D.J.R., 454

N.W.2d 838, 845 (Iowa 1990). In determining the best interests of a child, we must consider what the future holds for the child if returned to the parents. In re M.M., 483 N.W.2d 812, 814 (Iowa 1992). Evidence of the parent's past performance is relevant on this issue because it may show the quality of future care the parent is capable of providing. Id. The goal of Iowa Code chapter 232 is to prevent probable harm to the child; the statute does not require delay until after the harm has occurred. Id. at 815.

The law demands a full measure of patience with troubled parents who attempt to remedy a lack of parenting skills. In re A.C., 415 N.W.2d 609, 613 (Iowa 1987). In view of this required patience, certain steps are required by chapter 232. Id. But, beyond the parameters of chapter 232, patience with parents can soon translate into intolerable hardship for their children. Id. It is unnecessary to take from a child's future any more than is demanded by the statute. Id. at 614. Termination should occur if the statutory time period has elapsed and the parent is still unable to care for the child. In re M.Z., 481 N.W.2d 532, 536 (Iowa App. 1991).

We find there is clear and convincing evidence in the record to show Mary cannot be returned to her mother's custody. There has been already been one unsuccessful attempt at reunification. The mother did not have the ability to supervise the children and allowed them to

dominate her. No evidence was presented to show the mother had made any changes since the previous reunification effort.

We find there is clear and convincing evidence the mother is unwilling or unable to respond to services which would correct the situation. Also, we find there is clear and convincing evidence that an additional period of rehabilitation would not correct the situation. Many services have been provided to the mother and the children since the CINA petition was filed in 1986. However, after all of this time, the situation remains essentially the same as it was in 1986. It is very unlikely that offering additional services to the mother would improve her ability to parent. The mother remains unable to resume the care of Mary.

We recognize that a parent's mental disability, standing alone, is not a sufficient reason for termination of the parent-child relationship. In re K.F., 437 N.W.2d 559, 560 (Iowa 1989). However, it is a proper factor to consider and, when it contributes to a person's inability to parent, may be determinative on the issue of whether termination is required in the child's best interest. Id.

In the present case, we conclude it is in Mary's best interests to terminate T.L.'s parental rights. The evidence is clear that Mary needs a stable and permanent home. The conflict of having two mothers and the insecurity of living in a foster home had caused Mary to

develop behavioral problems. Continuing contact with her mother has proved detrimental to Mary's emotional health. Mary herself recognizes that she needs to break her ties to her mother and she took affirmative action to make herself available for adoption.

We affirm the decision of the juvenile court terminating T.L.'s parental rights to her child Mary.

AFFIRMED.