IN THE COURT OF APPEALS OF IOWA

No. 0-442 / 00-103
Filed September 13, 2000

IN THE INTEREST OF
P.G., Minor Child,

L.G., Mother,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

The mother of minor child P.G. appeals a district court order terminating her parental rights. **AFFIRMED.**

John C. Nelson of Thomas & Nelson, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Michele M. Lauters, Assistant County Attorney, for appellee-State.

Marchelle Denker, Sioux City, guardian ad litem for minor child.

Considered by Mahan, P.J., Zimmer, J., and Hayden, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 692.9206 (1999).

HAYDEN, S.J.

Lynda is the single mother of Paul, born May 9, 1998. She appeals from a juvenile court decision which terminated her parental rights. She claims the court erred in terminating her parental rights and that it is not in the best interests of the child, Paul. We affirm.

When Paul was nineteen days old Lynda was admitted to St. Luke's regional medical center (St. Luke's) after she reported depression and suicidal thoughts. She was under the care of her attending psychiatrist, Dr. Wassmuth. She was released from the hospital on May 29, 1998.

Five days later on June 3, 1998, Lynda again was admitted to St. Luke's. She was brought there by ambulance. At the time of her admission, she was unresponsive, not speaking, and was motionless, unblinking, and appeared to be in a typical catatonic state. She did not eat and did not respond for several days. She was given medication by injection and she gradually improved. At the time of her release on June 8, 1998, Dr. Wassmuth's diagnosis was schizophrenia undifferentiated, chronic with acute exasperation. He increased her medication. Lynda was again admitted to St. Luke's on June 23, 1998. This time it was because of an overdose on her medication. She was discharged by Dr. Wassmuth the next day.

On July 2, 1998, Lynda called the Iowa Department of Human Services (DHS) and reported she had spanked Paul, screamed at him and had placed him in a bedroom alone and slammed the door. A child in need of assistance petition was filed on August 17, 1998.

Service provider, Julie Myers, contacted the Sioux City police department on September 9, 1998 and asked them to check on Lynda and Paul at their apartment. Lynda had called Ms. Myers and told her she had been drinking while on medication and was experiencing suicidal thoughts and feelings. Lynda had also reported to Ms. Myers she had pieces of broken glass in a box near her bed and had cuts on her fingers. When the police arrived, they found Lynda very intoxicated with Paul in bed with her. The police took Lynda to Lynda's mother's home. Paul was placed in foster care in accordance with a voluntary agreement and has remained in foster care since then.

On September 28, 1998, Paul was adjudicated to be a child in need of assistance. The statutory grounds for this adjudication were Iowa Code sections 232.2(6)(b), (c)(2), and (n).

One of the main concerns of the service providers and of the juvenile court was Lynda's refusal to acknowledge her mental illness and how it affects her and Paul.

Supervised visitation was suspended after Lynda overdosed on prescription medication and was again hospitalized on March 23, 1999. When Paul visited Lynda her involvement and interaction with him was minimal at the most. She would need to be prompted to take Paul's coat off when he arrived, and to put it on before he left. Also, she was reminded to change his diapers when needed, to play with him and to respond to him. Frequently, Lynda chose to talk on the phone, and occupy herself with other activities during her visitation with Paul.

Review hearings were held on June 3, and August 4, 1999. Paul had been in foster care continuously since September 8, 1998. It was shown Lynda had refused to schedule appointments with service providers since the visitations with Paul were suspended. She had not been attending her sessions at the Gordon Recovery Center and had not followed through with her therapy sessions at Sioux Land Mental Health Center. Lynda did not request any additional reunification services. She only asked for supervised visitation with Paul resume. Lynda has made no significant progress toward being unified with her son Paul.

On November 24, 1998, Lynda underwent a psychological evaluation. Her diagnosis is paranoid schizophrenia and border line personality disorder. She had been hospitalized seven times in the last five years because of her mental illness. She has not taken her medication consistently. She continues to deny and minimize the effects of her mental illness on her ability to meet the needs of her son.

Lynda has been provided with many services before and since juvenile court intervention. These services have included numerous inpatient hospitalizations, treatment from several psychiatrists, home visits, in-home medication monitoring, in-home family support services from a registered nurse, public health nurse services, individual and group therapy, substance treatment and after-care through the Gordon Recovery Center, Home Care Services for the supervised visitations, therapy at the Counsel Against Sexual Assault and Domestic Violence, in-home services and parent skill development from Julie Myers, a psychological evaluation, and visitation supervision provided through Ms. Myers.

Lynda has refused to work with several providers to obtain treatment. She has gone through numerous counselors at the Sioux Land Mental Health Center. She was terminated from services at the Counsel Against Sexual Assault and Domestic Violence. Lynda requests another six months to get her life together. She also requests supervised visitations be resumed.

At the time of the termination hearing Paul was nineteen months old and had spent fifteen months in foster care. He has thrived and progressed well in foster care.

The juvenile court terminated Lynda's parent-child relationship with Paul under sections 232.116(1)(c), (g), and (j). The parent-child relationship between Paul and the putative father as well as any unknown biological father was also terminated pursuant to section 232.116(1)(b). Paul's custody and guardianship was transferred to DHS for adoptive placement.

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 App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 297 (Iowa App. 1996).

I.

Lynda claims the juvenile court erred in terminating her parental rights.

Iowa Code section 232.116(1)(c) (1999) provides that termination may occur 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, . . .
>
> (2) Subsequent to a child in need of assistance adjudication, the parents were offered or received services to correct the circumstances which led to the adjudication, and the circumstances continues to exist despite the offer or receipt of services.

Lynda argues the State never provided appropriate services to her. We do not again set out all of the services that were provided and afforded Lynda as listed in page four.

Even before Lynda was involved with the juvenile court, she was provided services through her psychiatrist, a nurse, a therapist, and a public health nurse. Before November, 1998, Lynda terminated her therapy because she disagreed with the therapist and then she began therapy with another person. This therapist terminated Lynda for failing to keep appointments.

In December 1998, Lynda was civilly committed. Individual therapy through counsel on sexual and domestic violence was terminated in December, 1998. She was hospitalized for an overdose on her anti-psychotic medication in March 1999. She had refused to schedule appointment with service providers since her visits with Paul were suspended in March 1999.

It is clear to this court Lynda was offered many services implemented by the State for her many problems including mental illness. She has not taken advantage of the services offered her or benefited from them. The services have been ineffective and Lynda has shown no meaningful progress. She remained resistive to treating or acknowledging her mental health problems.

Iowa Code section 232.116(1)(g) (1999) provides that termination may occur when:

> The court finds that all of the following have occurred:

> (1) The child is three years of age or younger.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (3) The child has been removed from the physical custody of the child's parent's for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than 30 days.
> (4) There is clear and convincing evidence that the child can not be returned to the custody of the child's parents as provided in section 232.102 at the present time.

Lynda argues she should be allowed visitation with Paul and he could possibly even be placed in her full-time care immediately.

Lynda has not seen Paul since March 1999. She has made little or no progress. Lynda was becoming more aggressive and inappropriate with the service providers. The visits between her and Paul were becoming less beneficial because of her lack of attentiveness and her cutting the visits short. Lynda has not addressed her mental health issues in order to provide a safe environment for Paul.

Lynda had written a note and made statements to one of her therapists that she was thinking about suicide and shooting herself with a gun. On February 14, 1999, Lynda told her in-home provider she has been sexually assaulted by the pastor the Gospel Mission. Later she stated she had only kissed the pastor.

At the termination hearing held on October 19, and November 5, 1999, Lynda asked for another six months to "get her life together", and for supervised visitations to be resumed.

We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hard ships for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa

App. 1993). A child should not be forced to endlessly suffer the parentless limbo of foster care. *In re J.P.*, 499 N.W.2d 334, 339 (Iowa App. 1993). 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 D.A.*, 506 N.W.2d 478, 479 (Iowa App. 1993). 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 continue 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).

Iowa Code section 232.116(1)(j) (1999) provides that termination may occur when:

> The court finds all of the following have occurred:
> (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.
> (2) The parent has a chronic mental illness and has been repeatedly institutionalized for mental illness, and presents a danger to self or others as evidenced by prior acts.
> (3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

We are aware mental illness alone can not justify a termination of parental rights. *In re E.B.L.*, 501 N.W.2d 547, 551 (Iowa 1993). However, mental illness can be a contributing factor to inability to perform parental duties. *Id.*

Lynda has had numerous hospitalizations since 1994 for mental illness. She has been civilly committed for mental illness. She continues to resist dealing

with her mental illness. Lynda has been receiving Social Security disability for mental illness since November 1997. Her psychiatrist diagnosed her with schizophrenia in September 1997 and June 1998. He currently prescribes an anti-psychotic medication for Lynda. Lynda's behaviors demonstrate she has unstable mental health. She has not understood, nor accepted how her mental illness affects Paul's safety and her ability to care for him.

Lynda argues she has never physically or mentally harmed Paul. However, she agreed Paul was a child in need of assistance. These circumstances have not changed. Under the termination statutes the State must act to prevent probable harm to a child, and need not delay until harm has actually occurred. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). The termination statutes are preventative as well as remedial. *Id.*

The juvenile court determined there was an imminent likelihood of neglect, physical and emotional harm to Paul, should he be returned to Lynda's care. We agree.

II.

Mother claims the termination of her parental rights was not in the best interest of her child.

The primary concern in a termination proceeding is the best interest of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995). Those best interests are determined by looking at the child's long-range as well as immediate interests. *Id.* The court is to consider what the future likely holds for the child if that child is returned to his or her parents. *In re L.L.*, 459 N.W.2d 489, 493-94 (Iowa 1990). Insight for that determination is to be gained from evidence of the

parents' past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing. *Id.* at 494.

The record in this case reveals Lynda has been afforded many, many services by professionals, as well as service and care providers. She has shown little or no progress. We view this case with a sense of urgency. *See Id.* at 495. Paul is doing well in foster care. He is adoptable and there are at least two families interested in adopting him. He is in need of permanency.

We affirm the juvenile court in all respects.

AFFIRMED.