IN THE COURT OF APPEALS OF IOWA

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CLERK SUPREME COURT

No. 8-055 / 97-1596
Filed April 24, 1998

IN THE INTEREST OF H.J.S., Minor Child,

E.K., Mother,
Appellant.

Appeal from the Iowa District Court for Dickinson County, Cameron B. Arnold, Associate Juvenile Judge.

The mother of minor child, H.J.S., appeals a district court order terminating her parental rights. **AFFIRMED.**

Jon M. Martin of Martin Law Office, Spirit Lake, for appellant.

Thomas J. Miller, Attorney General, Barbara B. Galloway, Assistant Attorney General, and Bethany Verhoef Brands, Assistant County Attorney, for appellee State.

Lonnie B. Saunders of Narey, Chozen & Saunders, Spirit Lake, guardian ad litem for minor child.

Considered by Huitink, P.J., and Streit and Mahan, JJ.

HUITINK, P.J.

Eugenia, the natural mother, appeals the juvenile court's order terminating her parental rights to her daughter, Holly. The court found Eugenia had not developed or maintained a significant and meaningful parental relationship with Holly or made efforts to assume parental responsibilities. Iowa Code § 232.116(1)(d). It also found Holly could not safely be returned to Eugenia's care. Iowa Code § 232.116(1)(g). In our de novo review, we affirm the termination of parental rights.

Background. Holly was born in California on February 12, 1992. Eugenia began serving a nine-month sentence for possession of methamphetamine in June, 1992. While Eugenia was incarcerated, Holly stayed with her father and maternal grandmother. Eugenia was released on work release in November, 1992. After violating her work release, Eugenia returned to jail from October, 1993, to January, 1994. At that time Holly's father was in a rehab center and her maternal grandmother was ill. The paternal grandmother offered to care for Holly and, in August, 1993, Eugenia gave Holly's care to the paternal grandmother, who was visiting her son in California.

The grandmother returned to her home in Iowa with Holly and began child in need of assistance (CINA) proceedings on November 5, 1993, based on abandonment. The juvenile court adjudicated Holly CINA on December 1, 1993, "as of 9-1-83," and she was placed in her grandparents' custody. Eugenia was released in January 1994. She was incarcerated again in December 1994, for probation violation, having tested

positive for drug use. She was paroled in July 1995, and discharged from parole in August 1996. Holly and her grandparents moved from Iowa to Oregon in November 1996. Iowa filed the petition to terminate Eugenia's parental rights on January 2, 1997. The court had a hearing on the termination on January 21, 1997. After receiving testimony from the grandparents, the court continued the hearing twice at Eugenia's request so that she could attend. After a telephonic hearing on April 2, 1997, the court ordered Eugenia's parental rights terminated on August 7, 1997. The court also terminated the father's parental rights, but he does not appeal.

Scope of Review. We review termination of parental rights de novo. Iowa R. App. P. 4. The best interest of the child is our paramount concern. There is a rebuttable presumption placement with the parent(s) is in the child's best interest. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996). 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 hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App.1993). The crucial days of childhood cannot 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 cannot wait for responsible parenting. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

Iowa Code chapter 232 provides for periodic review of dispositional orders made after the adjudicatory hearing, with the intent being removal of the causes of the adjudication, such as by provision of services to the parent, so that the child can be

returned to the home. See §§ 232.99, 232.103, 232.104, 232.102. If the dispositional order places the child with relatives, the court may, but is not required to, order DHS or other agencies to provide services to the parent in order to enable the parent to resume custody of the child. Iowa Code § 232.102.

When the grounds for termination in section 232.116 are shown by clear and convincing evidence, the court may terminate parental rights. The court is not required to terminate parental rights if a relative has legal custody of the child. Iowa Code § 232.116(3)(a).

Parent-child Relationship. Iowa Code section 232.116(1)(d) provides for termination if a parent has not maintained "significant and meaningful contact" with the child. Significant and meaningful contact includes:

> the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, . . . a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

Iowa Code § 232.116(1)(d)(3). From the time Eugenia was incarcerated in November 1993, until the court's termination order in August 1997, Eugenia had not visited Holly and had not provided any of her support. Her contact with Holly was minimal—a very few letters and phone calls. Eugenia did not acknowledge Holly's birthdays or Christmas by sending Holly a card or present. Other than asking the grandmother to return Holly to her, Eugenia made no attempt to resume care of Holly or to maintain a significant and meaningful parental relationship with her. Eugenia

did state in one letter to the grandmother that she was starting the court process to have Holly returned to her. The record does not reveal any such action. We find clear and convincing evidence Eugenia did not maintain significant and meaningful contact with Holly.

Eugenia asserts "reasonable efforts" were not made to reunite her with Holly as required. *In re C.L.H.*, 500 N.W.2d 449, 453 (Iowa App. 1993); Iowa Code § 232.102(9)(a). Parents must demand services prior to the termination hearing. *In re B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993); *In re C.D.*, 508 N.W.2d 97, 101 (Iowa App. 1993). We find no evidence in the record Eugenia sought any services or demanded "reasonable efforts" prior to the termination proceeding. We conclude she failed to preserve error on this issue. Termination under Iowa Code 232.116(1)(d) was proper.

Safe Reunification. The court also terminated Eugenia's parental rights because it determined Holly could not safely be returned to her care. Iowa Code § 232.116(1)(g). At the time of the hearing, Eugenia had no job. She and her thirteen-year-old daughter were living with Eugenia's ill mother in a small studio apartment. Eugenia's two-year-old daughter was living with the girl's father. The older daughter also lives part of the time with her father in Oregon. Eugenia has no history of stable employment or of providing housing for herself. She has not demonstrated the ability to resolve the substance abuse problems in her life which have caused her repeated incarceration. Holly's childhood cannot be suspended while Eugenia experiments with ways to face up to her own problems. *See In re D.A.*, 506 N.W.2d at 479. Holly

simply cannot wait for responsible parenting. *See In re L.L.*, 459 N.W.2d at 495. We find Holly cannot safely be returned to Eugenia's care. Termination under Iowa Code section 232.116(1)(g) was proper.

Due Process. Finally, Eugenia argues she was denied due process because the court refused to assist her with travel expenses to attend the hearing. Due process requires notice and an opportunity to be heard. Eugenia does not deny she received notice.

Iowa Code section 232.91(1) provides the parent should be at all hearings as provided in section 232.38. That sections allows hearings without the parent present if the parent "fails to appear after reasonable notification." Iowa Code § 232.38(1). We have held it is not necessary for a parent to be present if procedural safeguards are met. *In re. J.S.*, 470 N.W.2d 51, 52 (Iowa App. 1991). In this case, the court granted two continuances to allow Eugenia to make travel arrangements to attend. In addition, Eugenia was represented personally by counsel and she participated by telephone. Under the circumstances of this case, we conclude the requirements of due process were satisfied.

Having considered all of Eugenia's claims, whether or not addressed specifically in this opinion, and for the reasons set forth, we affirm the decision of the juvenile court terminating Eugenia's parental rights to Holly.

AFFIRMED.