IN THE COURT OF APPEALS OF IOWA

No. 0-765 / 00-1198
Filed February 7, 2001

FILED
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CLERK SUPREME COURT

IN THE INTEREST OF J.K and J.K, Minor Children,

M.K., Mother,
Appellant.

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

Mother appeals the juvenile court's order terminating her parental rights to her two children. **AFFIRMED.**

Martha M. McMinn, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, and Carl J. Petersen, County Attorney, for appellee-State.

Randy Waagmeester of Waagmeester Law Office, P.L.C., Rock Rapids, guardian ad litem for minor children.

Brian Van Engen of McGill & McGill, Rock Valley, for father.

Heard by Sackett, C.J., and Vogel and Mahan, JJ.

VOGEL, J.

Maria appeals the juvenile court's order terminating her parental rights to her two children. We find the record contains clear and convincing evidence to terminate her parental rights and affirm.

Background facts. Maria is the natural mother of Jennifer, born in 1989, and Jeffrey, born in 1990. On September 3, 1998, an application for emergency removal was filed to remove Jennifer and Jeffrey from the care of Maria's paramour, Randy. Maria had left the children with Randy during her incarceration in South Dakota. The Department of Human Services (DHS) removed the children due to Randy's unsuitable parenting skills, as evidenced by the removal of his own children on the basis of physical abuse and neglect. Upon Maria's release from incarceration in May 1999, she took up residence in Sioux Falls, South Dakota with Randy. The children were in foster care in Rock Rapids, Iowa. In approximately February 2000, Maria was convicted of two class "D" felonies in Iowa and sentenced to serve two five-year concurrent terms. Maria's parental rights were terminated on June 28, 2000. Maria now appeals.

Scope of review. We review proceedings to terminate parental rights de novo; we review the facts as well as the law and adjudicate parents' rights anew. *In re Dameron,* 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the findings of the juvenile court, particularly with respect to the credibility of witnesses, but are not bound by them. *In re L.L.,* 459 N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.,* 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7). Our primary concern in a termination proceeding is the best interests of

the child. *R.R.K.*, 544 N.W.2d at 275. Those best interests are determined by looking at the child's long-range, as well as immediate interests. We consider what the future likely holds for the child if that child is returned to his or her parents. *L.L.*, 459 N.W.2d at 493.

Reasonable services. Maria alleges DHS failed to provide her with reasonable services in order to facilitate the reunification of her family. However, she failed to request such services in any proceeding before the juvenile court. Thus, she has failed to preserve error for our review of this issue. As a general rule, an issue not presented in the juvenile court may not be raised for the first time on appeal. *In re C.M.*, 526 N.W.2d 562, 566 (Iowa App. 1994).

Termination of Maria's parental rights. Maria further alleges the trial court erred in finding clear and convincing evidence to terminate her parental rights under Iowa Code sections 232.116(1)(d) and (e). Iowa Code section 232.116(1)(e) requires:

> The court finds all of the following have occurred:
>
> (1) The child is four years of age or older.
> (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 parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
> (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

The first three elements outlined by the Iowa legislature are not contested by Maria. The children are older than four years of age, they have previously been adjudicated to be children in need of assistance, and they have been removed

from Maria's care for the requisite number of months. The only consideration before the trial court during the termination hearing was whether the children were able to be returned into the care of Maria at that time. Clearly, they were not. Maria was incarcerated on two felony convictions, serving two concurrent five-year sentences with no clear indication of a release date.

Maria's history reflects a criminal propensity that has caused her to be absent from her children's lives repeatedly for long stretches of time. Insight for a determination of the future may be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing. *L.L.*, 459 N.W.2d at 493. The record indicates these children are waiting in pre-adoptive placement. Such a placement would allow these children to establish some necessary stability in their lives. The waiting period for children should be reasonably limited because patience on behalf of the parent can quickly translate into intolerable hardship for the children. *In re R.J.*, 436 N.W.2d 630, 636 (Iowa 1989). A child should not be forced to suffer the parentless limbo of foster care endlessly, awaiting the maturity of his or her natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). This case is tragic in that Maria has continued with her criminal behavior at the expense of her children.

Maria additionally alleges the trial court failed to meet the elements of Iowa Code section 232.116(1)(d). However, having found the trial court correctly terminated Maria's rights under Iowa Code section 232.116(1)(e), we need not address this issue. When the district court terminates parental rights on more

than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996); *R.R.K.*, 544 N.W.2d at 276. Accordingly, we affirm.

AFFIRMED.