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JUN 30 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF DANIELLE SUZANNE KREID, and DOMINICK RONALD MARCOTT, Children,	)	Filed June 30, 1981
SHEREE LYNN CARPENTER, Mother-Appellant.	)	1-137 / 3-64268

Appeal from Scott District Court - Don A. Petruccelli, Judge.

Natural mother appeals from orders terminating her parental rights with regard to her two children. REVERSED.

Jerald Feuerbach of Gomez, Feuerbach, May & Pries, Davenport, Iowa, for appellant.

Thomas J. Miller, Attorney General of Iowa; John G. Black, Special Assistant Attorney General; Brent Hege, Assistant Attorney General; and John G. Mullin, Davenport, Iowa; attorneys for the children.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

Natural mother, Sheree Carpenter, appeals from orders terminating her parental rights with regard to her two children. She claims that there was insufficient evidence to support the trial court's finding that she has failed to correct the conditions giving rise to a prior adjudication that the children were in need of assistance under section 232.2(13)(b), The Code 1977. Our review is **de novo.** In the Interest of Kelley, 262 N.W.2d 781, 782 (Iowa 1978). We reverse.

On January 5, 1978, Danielle Kreid (born October 5, 1975) was adjudged to be a child in need of assistance (CHINA) as defined in section 232.2(13)(b), The Code 1977, and placed in foster care on the sole ground that she was "in need of special care and treatment required by his physical or mental condition which the parents, guardian, or other custodian is unable to provide." Other alleged grounds were specifically rejected by the juvenile court. An identical order was entered the next day with respect to Sheree's other child, Dominick (born May 30, 1974). At the time of these orders Sheree was incarcerated in the women's reformatory at Rockwell City. After her release in May of 1978, she entered into a service agreement by which she hoped to prepare herself and her environment for the return of her children. On April 6, 1979, a petition was filed requesting the termination of her parental rights under section 600A.8(6), the Code 1977, alleging that "reasonable efforts under the direction of the Juvenile Court have failed to correct the conditions giving rise to [the prior CHINA adjudication]." The court issued its findings and conclusions in two separate orders terminating Sheree's parental rights to her children. She filed this appeal on August 24, 1979.

To justify the termination of parental rights, the court must find clear and convincing proof of the statutory grounds. Section 600A.8, The Code. In this case, the petition for termination alleged that Sheree failed to correct the conditions giving rise to the prior CHINA adjudications. The only such conditions found to exist by the juvenile court at the time of the CHINA adjudication were the need of special care and treatment which Sheree could not provide. "Special" is defined in part in Black's Law Dictionary (rev. 4th ed. 1968) as "unusual, extraordinary." The record shows nothing concerning either of the children's mental or physical condition at the time of the termination hearing which results in any requirement of unusual or extraordinary care or treatment. We therefore conclude that the State failed to establish that the ground which gave rise to the CHINA adjudication continued to exist at the time of the termination hearing. This is not to say that other grounds do not exist which would

presently justify termination of parental rights, but if such grounds do exist, they have not been properly brought before the court for adjudication.[1]

Because there is no clear and convincing evidence to support the termination of Sheree's parental rights on the grounds alleged in the petition, the trial court's order is reversed.

REVERSED.

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[1] The juvenile court also found that Sheree "has substantially, continuously, and repeatedly refused and neglected to comply with the duties imposed upon her as a parent by the parent-child relationship," relying on section 600A.8(4), The Code. The State, in its appellate brief, relies upon this to justify that court's action. However, the only ground alleged in the petition to terminate Sheree's parental rights was that she failed to correct the conditions which led up to the CHINA adjudication. This situation is similar to that presented in Interest of Kelley, 262 N.W.2d at 784, where it was stated:

> It is a denial of due process to adjudicate a termination of parental rights on a ground of which the parent has not had proper notice. In re Meyer, 204 N.W.2d 625 (Iowa 1973).

See also In the Interest of Robbins, 230 N.W.2d 489, 491 (Iowa 1975). Since Sheree did not receive proper notice that the State would seek to terminate her parental rights on the grounds of her failure to comply with the duties imposed by the parent-child relationship, termination of those rights may not be predicated on that ground.