FILED
SEP 24 1991
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 1-332 / 91-297

IN THE INTEREST OF A.G. and B.G.,
Minor Children,

P.G., Natural Mother,

Appellant.

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Appeal from the Iowa District Court for Muscatine County, James A. Weaver, District Associate Judge.

Mother appeals a juvenile court ruling suspending visitation with her minor daughter who was determined to be a child in need of assistance. **APPEAL DISMISSED.**

Ronald D. Arispe of J.W. Conway Law Offices, Muscatine, for appellant mother.

J. Michael Metcalf of Metcalf, Conlon & Siering, Muscatine, for appellee child A.G.

Bonnie J. Campbell, Attorney General, John M. Parmeter, Assistant Attorney General, and Judy Sheirbon, Assistant Attorney General, for appellee State.

Considered en banc.

SCHLEGEL, P.J.

On March 8, 1989, the juvenile court ruled that both A.G., born January 29, 1985, and B.G., born July 27, 1987, were children in need of assistance as defined by Iowa Code sections 232.2(6)(b), 232.2(6)(c)(2), and 232.2(6)(d) (1989). Following a dispositional hearing A.G.'s placement in foster care was continued.

Evidence shows that after increased visits between A.G. and her mother, P.G., the child began to exhibit more behavioral problems. In February 1990, based upon interviews with P.G., Human Services, and other reporting services, a clinical team resolved that A.G. be placed in play therapy and that visits between P.G. and A.G. be suspended. Consequently, in April 1990 visits between the two were suspended. The juvenile court found such suspension was reasonable under the circumstances and ordered that play therapy for A.G. be arranged. After a review hearing the juvenile court on January 17, 1991, ruled that A.G. was to remain in foster care and that visits between P.G. and A.G. in any manner were to be suspended. P.G. has appealed.

Subsequent to her appeal the State filed a termination of parental rights petition. The juvenile court entered a termination order on April 17, 1991. In a companion case, In the Interest of A.G., No. 91-766 (Iowa App. Sept. 24, 1991), we hold today there is clear and convincing evidence to support the termination of P.G.'s parental rights.

Because we hold that termination is proper, this issue of visitation suspension is moot.

APPEAL DISMISSED.

All judges concur except Sackett, J., who dissents.

SACKETT, J. (dissenting)

I cannot agree with the majority in either of these cases. This child, born in January 1985, was placed in foster care when the mother was hospitalized after an attempted suicide. The mother has two other siblings.

This child has been identified as a special needs child and has been identified as a child who is difficult to parent. A foster placement for her has been difficult. Since removal, she has been in at least five different foster homes.

Her mother, who is bonded to her, is poor and has attempted to raise three children with a spouse who is not supportive. The mother is currently parenting the other two children who are in her home.

On January 17, 1991, the juvenile court cut off the mother's visitation. The mother has appealed from the juvenile court's order terminating her visitation rights with one of her three children. The majority has elected not to address this issue. Instead, they have affirmed a juvenile court order terminating this mother's parental rights. The termination of her parental rights was filed after this appeal from the order denying visitation. Consequently, the majority finds the issue of visitation is moot. I do not agree with the majority's conclusion the termination should be addressed first.

The majority is well intentioned in their desire not to have unreasonable delays. The majority justifies the need to move forward with termination by finding termination will give this child a permanent, stable home and environment, love and attention, and the chance to become a well-adjusted adult. I do not share the majority's optimism that termination of parental rights will provide these things for this child. Termination does not bring with it any guarantee of adoption for this special needs child. Even if there is an adoption, the child will suffer a number of problems having her biological ties cut. This is an older child, she is bonded to her mother and the two siblings in her mother's care.

I find when the juvenile court cut off visitation the State was no longer employing reasonable efforts to reunify this family.

It should be rare when an agency is using reasonable efforts to preserve a family that visitation with the parent be cut off. If the parent is so disruptive or so abusive that the child is in actual danger, then the direction should be termination of parental rights at the earliest possible date.

Visitation between a parent and his or her child has been shown by numerous studies to be one of the most important, if not the most important, reunification service. See Shotton, Making Reasonable Efforts in Child

Abuse and Neglect Cases, 26 Cal. West L.Rev. 223, 249 citing Fansel, D., On the road to permanency, CWLA, New York, 1982 (Children visited frequently are more likely to be released from foster care); Weinstein, E., The Self-Image of The Foster Child, Russell Sage Foundation, New York (1960) (frequent visiting is associated with emotional well-being of children and parent). An agency's keeping a child from his or her parent for less than extremely important reasons should be unacceptable. See In re Kristina I., 520 A.2d 574 (R.I. 1987).

If there are problems with the visitation, then efforts should be directed to discovering the root of the problem and attempting to correct it.

We should be realistic in assessing visitation problems. Even in the best homes, parents and children have disagreements. Children go through periods when they are disturbed by their parents, when they don't want to have anything to do with their parents, when they fight with their parents. The visitations must be gauged by realistic yardsticks.

Unless the child is in eminent danger, the visitations should always provide for time alone between the parent and child. If the parent is at loss on how to spend this time, efforts should be made to assist the parent in scheduling activities where he or she will have independent dialogue with the child.

There is no evidence this mother presents a danger to this child. The juvenile court has allowed her older two children to remain with her. Furthermore, it is difficult to determine what problems are the result of the mother's visitation and what problems resulted from the five different foster care placements the child had while in the State's care.

For visitations to be successful in reuniting the family, it is necessary that foster parents and alternate care providers are encouraged to cooperate with parents. Foster parents should be advised that the purpose of foster placement is to work toward returning the child home. Foster parents should be advised that their position in the system is not to gather evidence on the parents. Visitations wherever possible should include the foster parents and the natural parents. They should be encouraged to communicate for the children's good.

Where possible, foster parents and natural parents should be encouraged to arrange the visitation without department assistance. This will conserve limited resources. It ahould provide for visitation that might not otherwise be available because of the limited availability of department personnel. In assessing visitation, we must recognize there will be problems. Our efforts must be directed to working on these problems. Only serious problems should justify a termination of visition. I do

not find, from this record, the problems were serious enough to terminate visitation. This mother was found to be an adequate parent to two children that are in her home. There was no reason to terminate her visitation with her other child.

We are required to use reasonable efforts to reunify families. I find terminating visitation entirely under the facts of this case meant reasonable efforts were no longer being utilized. Totally cutting off this child from her natural mother put this child at risk. I would modify the order terminating visitation. I would remand to the juvenile court to restore visitation and order the agency to present a plan that will work toward reunification and allow this child maximum contact with her mother and siblings that are in the mother's care. I would reverse the termination.

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