IN THE COURT OF APPEALS OF IOWA

No. 1-585 / 00-1473
Filed September 12, 2001

FILED
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CLERK SUPREME COURT

IN THE INTEREST OF N.S.,
Minor Child,

K.S., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

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

Diane Ruisch Larsen, Waterloo, for appellant.

Thomas J. Miller, Attorney General, M. Elise Pippin, Assistant Attorney General, and Melissa L. Smith, Assistant County Attorney, for appellee-State.

Kathryn J. Mahoney of Gottschalk, Shinkle & Noonan-Day, Cedar Falls, guardian ad litem for minor child.

Considered by Sackett, C.J., and Mahan, and Zimmer, JJ.

ZIMMER, J.

A mother appeals the decision of the juvenile court which terminated her parental rights to her minor child. She claims the State did not engage in reasonable efforts to reunite her with her child. She also claims she should have been given more time to demonstrate she could care for the child. We affirm on appeal.

Katherine is the mother of Shane, born in October 1986; Justin, born in August 1988; and Nicholas, born in July 1995. This case involves only Nicholas.[1]

In July 1997, Nicholas was admitted to the University of Iowa Hospitals and Clinics. He was diagnosed with failure to thrive, reactive airway disease, possible pauciarticular arthritis, and parent-child relational problems. He was discharged in August 1997, but his weight soon began to decrease. Katherine received many services to assist her in caring for Nicholas.

In October 1997, Nicholas was again admitted to the hospital. He was fitted with a nasogastric tube, which would allow formula to be administered during the night, with the hope of increasing his weight. Katherine had many problems with the tube. Medical professionals believed Katherine was not following advice on how to use the tube, which placed Nicholas's health at risk. In November 1997, Nicholas was removed from Katherine's care and placed in foster care. Nicholas was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2), (e), and (g).

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[1] Nicholas's father had minimal involvement in his life and is not a party to this appeal.

Nicholas gained weight while in foster care. In January 1998, his feeding tube was removed. Katherine continued to have problems getting Nicholas to eat during visits. Katherine had a psychological evaluation, which determined she had a generalized anxiety disorder and a histrionic personality disorder. The evaluation stated:

> Her past failures to follow through on recommendations regarding Nick's behavioral and feeding routines are likely the result of the overwhelming stress this woman experiences as a single parent trying to raise three disabled youngsters. Because her psychological resources are limited and usually stretched to the limit, her capacity to follow through with needed changes is severely restricted. In addition, this woman's apparent cooperation is quite superficial and does not reflect any genuine intention to correct her behavior. Her ideas and values are quite rigid and inflexible.

Shane and Justin have attention deficit hyperactivity disorder, and they both have some behavioral problems. Katherine had a high level of stress from maintaining these two children in the home, even without Nicholas's eating problems.

Katherine cooperated with services. In July 1998, her visitation time with Nicholas was increased, and Nicholas was eating several meals at her home each week. Nicholas refused to eat more than a few bites at his mother's home, and his weight decreased. Nicholas continued to eat well at his foster home. Katherine had a new psychological evaluation in order to determine what could be causing her continuing problems with Nicholas. She was diagnosed with a generalized anxiety disorder, possibly in remission, and obsessive-compulsive personality disorder. Katherine began to attend individual counseling.

In March 1999, the juvenile court ordered DHS to prepare a plan for reunification of Nicholas with Katherine. DHS expressed some concerns about reunification due to unsanitary conditions in Katherine's home, and social

workers began making a weekly inspection of her home. Katherine's visitation with Nicholas was gradually increased over the summer months. By August 1999, however, Nicholas began to lose weight. Also, he began to exhibit some behavioral problems, such as temper tantrums and regression in toilet training. Nonetheless, on August 30, 1999, Nicholas began a trial period at Katherine's home. He continued to lose weight. Katherine's housekeeping began to decline. She also had financial problems and was threatened with eviction. Due to these problems, on October 20, 1999, Nicholas was again removed and placed in foster care.

In December 1999, the State filed a petition to terminate Katherine's parental rights to Nicholas. The juvenile court terminated Katherine's parental rights under sections 232.116(1)(c), (d), (e), and (h). The court found Katherine did not have the ability to provide a safe and adequate home for the child, demonstrate the consistent routine the child's health required, nor address his weight loss and feeding dysfunction. The court concluded Katherine was unable the demonstrate the ability to meet Nicholas's significant needs. Katherine appeals.

I. SCOPE OF REVIEW

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Our primary concern is the best interests of the child. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. REASONABLE EFFORTS

Katherine contends the State did not engage in reasonable efforts to reunite her with Nicholas. She asserts various service providers gave her conflicting advice on how to deal with Nicholas's problems. She also claims she should have been given a longer period of time to show Nicholas could succeed in her home.

Reasonable services must be provided to attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1997). While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997). There is no evidence to show Katherine asked for other or different services to help her deal with Nicholas's problems. We find the services which were offered to Katherine were reasonable, under the circumstances of this case.[2]

A court 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 Ct. App. 1996). At some point, the rights and needs of the child rise above the rights and needs of the parents. *J.L.W.*, 570 N.W.2d at 781. Katherine was given sufficient time to show whether Nicholas could be returned to her care.

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[2] Katherine was provided with in-home family therapy, skill development sessions, supervised visitation, home nursing, homemaker services, psychological evaluations, individual counseling, medical advice, and financial assistance.

Despite three years of intensive services, Katherine was unable to meet Nicholas's needs.

III. SUFFICIENCY OF THE EVIDENCE

Katherine again asserts she was not given sufficient time to show Nicholas could safely be returned to her care. She states she should have been given another trial home placement to allow her to demonstrate she could care for Nicholas.

While the law requires a full measure of patience with troubled parents who attempt to remedy a lack of parenting skills, Iowa has built this patience into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). Once the limitation period found in section 232.116(1) lapses, termination proceedings must be viewed with a sense of urgency. *Id.* at 495. It is unnecessary to take from the a child's future any more than is demanded by statute. *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997).

Here, Nicholas has been in foster care since November 1997. As noted above, Katherine was given intensive services over a period of three years. Katherine was given more than sufficient time to demonstrate her parenting skills. Unfortunately, due to her own emotional problems and chaotic lifestyle, Katherine is not able to meet Nicholas's needs. Nicholas needs stability and a consistent routine in order to thrive. We determine the State presented sufficient evidence to warrant termination of Katherine's parental rights.

We affirm the decision of the juvenile court.

AFFIRMED.