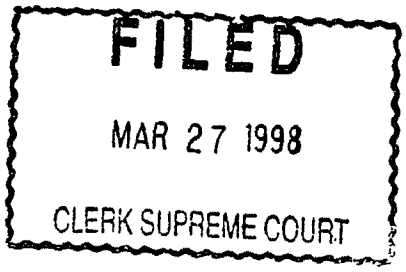
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IN THE COURT OF APPEALS OF IOWA



No. 8-123 / 97-1881
Filed March 27, 1998

IN THE INTEREST OF
K.R, A.C., J.C., and C.R., Minor Children,

L.C., Mother,
Appellant.

Appeal from the Iowa District Court for Scott County, Gary D. McKenrick, District Associate Judge.

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

Stephen W. Newport and Cheryl J. Newport, Davenport, for appellant.

Thomas J. Miller, Attorney General, and Chris Odell, Assistant Attorney General, for appellee-State.

Judith Morrell, Davenport, guardian ad litem for minor children.

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

HUITINK, P.J.

Lisa and James are the parents of James (Jamie), born in March 1988; Adrian, born in July 1989; Charles, born in July 1991; and Katherine, born in March 1993. Lisa had primary physical care of the children after the parties divorced. James has not been recently involved with the children.

School officials contacted the Department of Human Services (DHS) with concerns about Jamie's small size and poor hygiene. Lisa voluntarily began to receive services from DHS in September 1993. Lisa became involved with Todd in January 1994. In June 1994, DHS issued a founded report of denial of critical care against Lisa because she failed to obtain immediate medical care when Charles broke his leg.

In May 1995, Jamie was diagnosed with failure to thrive due to environmental factors. Investigators found Lisa's home was very cluttered and contained objects dangerous to children. Jamie was placed in the hospital, where he gained weight. He did not continue to gain weight when returned to Lisa's care. DHS issued a founded report of denial of critical care against Lisa for failure to provide adequate shelter and food for the children.

In November 1995, the children were adjudicated to be children in need of assistance. The juvenile court ordered a comprehensive diagnostic evaluation of the children by the Child Abuse Council. The evaluation found Jamie seemed to be depressed. Adrian is developmentally delayed and has speech problems. Jamie and

Adrian attend special education classes. The report recommended Jamie and Adrian be placed in foster care because Lisa could not meet their special needs. Lisa has low intellectual functioning, and uses denial as a means of coping with problems. Due to the result of the report, the guardian ad litem sought the removal of the children. On February 9, 1996, the juvenile court ordered the children placed in foster homes. Jamie, Adrian, and Charles were placed in one home, and Katherine in another.

After the children were in foster care, they alleged they had been physically and sexually abused. DHS issued the following founded reports of abuse: (1) Todd physically abused the children by intentionally burning them with cigarettes; (2) the children had been physically abused by Lisa's mother, who hit them with a ruler or belt; (3) Todd had physically abused Charles by throwing him on a bed; (4) Lisa physically abused the children by omission due to her failure to protect the children from harm; (5) the children received denial of critical care by Lisa because she did not intervene in regard to the visible signs of abuse shown by the children; (6) the children received denial of critical care by an unknown perpetrator who confined them as a means of punishment; and (6) Todd sexually abused Jamie, Adrian, and Katherine.

Lisa and Todd separated in June 1996. Lisa continued to receive services to help her with parenting and homemaker skills. She remained unwilling to accept responsibility for the removal of the children. She was also unable to improve her parenting skills. Lisa's visits were first shortened from two hours to one and one-half

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hours per week, and then to one hour every two weeks. Lisa was unable to demonstrate effective parenting or nurturing during the visits. She could only focus on one child at a time. Lisa has admitted she cannot supervise all four children by herself. Lisa has maintained a stable residence, but has not maintained stable employment.

For a period of time, the maternal grandparents had visitation of one hour per month. The children engaged in very negative behavior after the visits, and the visits were suspended. Lisa informed a social worker she did not want her children to be raised by her parents because of the way she was treated as a child.

The children progressed in foster care. The children's behavior improved. They continued to attend individual therapy to help them with their behavioral problems. Jamie began to gain weight. He was placed on medication for attention deficit disorder. Adrian was diagnosed with an adjustment disorder. Adrian and Charles attend speech therapy.

The State filed a petition to terminate the parental rights of Lisa and James. The juvenile court terminated Lisa's parental rights pursuant to Iowa Code section 232.116(1)(e). James' parental rights were also terminated. Only Lisa has appealed.

I. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our

primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Lisa contends the State failed to present clear and convincing evidence the children could not be returned to her care, which is a requirement of section 232.116(1)(e)(4). She states she completed all of the requirements of the case plan. She also states her home was adequate for the children.

We find there was clear and convincing evidence the children could not be returned to Lisa's care. In the past, Lisa was unable to provide adequate food and shelter for the children. She was also unable to protect them from physical and sexual abuse. Although Lisa received services for a substantial period of time, she was unable to apply new parenting techniques. Lisa remained unable to supervise the children for even one hour every two weeks. We find Lisa's parental rights were properly terminated under section 232.116(1)(e).

III. Lisa claims DHS did not engage in reasonable efforts to reunite her with the children. She asserts DHS failed to provide services geared toward her learning disabilities. She also asserts visitation should have been held in her home instead of at DHS offices. Furthermore, she asserts the children should have been placed in the least restrictive alternative, which was with her parents. Finally, she asserts DHS should have allowed her to have visits with less than all four children at one time.

Parents have an obligation to demand services prior to the termination hearing. *In re B.K.*, 500 N.W.2d 54, 57 (Iowa 1993). Services should be challenged when the

case plan is entered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). We find no evidence Lisa requested additional or other services prior to the termination hearing. We determine Lisa has not sufficiently preserved this issue for our review.

If we were to address this issue on the merits, we would find Lisa received reasonable services. DHS was aware of Lisa's low intellectual functioning, and provided her with appropriate services. Lisa was unable to supervise the children at visits held at a park or mall, and she requested visits resume at DHS offices. As noted above, Lisa specifically told social workers she did not want the children placed with her parents. We believe she should not now be able to complain because they were not placed there.

Lisa claims it was improper to allow the foster mother to view the supervised visits. Lisa did object to this practice at a staffing, and it was discontinued. We find Lisa was not harmed during the brief time the practice was allowed.

IV. Lisa contends the juvenile court improperly admitted certain exhibits because they were hearsay. These exhibits include a hospital report, a termination report prepared by an agency contracting with DHS, a DHS report, a Court Appointed Special Advocate (CASA) report, and a letter regarding one of the children from the child's school.

Iowa Code section 232.96(6) provides:

> A report, study, record, or other writing or an audiotape or videotape recording made by the department of human services, a juvenile court officer, a peace officer or a hospital relating to a child in

> a proceeding under this division is admissible notwithstanding an objection to hearsay statements contained in it provided it is relevant and material and provided its probative value outweighs the danger of unfair prejudice to the child's parent, guardian, or custodian.

Under this statute, hearsay evidence is admissible in termination proceedings. *In re E.J.R.*, 400 N.W.2d 531, 533 (Iowa 1987).

We find the evidence in question was admissible under section 232.96(6). The hospital report was clearly admissible. The other exhibits were either prepared by DHS or for DHS. Reports prepared by a social worker, as well as other reports and information relied upon by a social worker in carrying out his or her duties, may be considered admissible over hearsay objections. *In re A.J.*, 553 N.W.2d 909, 916 (Iowa App. 1996). We find no abuse of discretion in the juvenile court's decision to admit these exhibits.

Lisa also claims certain exhibits were not admissible because they were not proper expert opinion evidence. These exhibits were reports prepared by the CASA representative. Section 232.126 permits the juvenile court to appoint a CASA to represent the interests of a child. Section 232.126 provides:

> The court appointed special advocate shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the position of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the court appointed special advocate shall file reports to the court as required by the court.

Since CASA reports are specifically permitted by statute, we determine these reports are admissible in juvenile court proceedings.

We affirm the decision of the juvenile court terminating Lisa's parental rights to Jamie, Adrian, Charles, and Katherine. We determine termination is in the children's best interests.

AFFIRMED.