IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 1999-308 (9-538) / 99-378
Filed October 27, 1999

IN THE INTEREST OF D.L. and D.L., Minor Children,

D.L., Mother,
Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, Gerald W. Magee, Associate Juvenile Judge.

Mother appeals from juvenile court order terminating her parental rights to two children. **AFFIRMED.**

Ronald D. Arispe, Clear Lake, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Gregg R. Rosenbladt, Assistant Cerro Gordo County Attorney, for appellee-State.

Mark Young, Mason City, guardian ad litem for minor children.

Steven VandenBerg, Mason City, attorney for intervenor maternal grandmother.

Considered by Streit, P.J., and Mahan and Zimmer, JJ.

STREIT, P.J.

Dewonnia is the mother of Dinzall, born in February 1991, and Dewon, born in September 1993. She appeals the decision of the juvenile court which terminated her parental rights to these children. Dewonnia claims the State did not make reasonable efforts to reunite her with the children. We affirm on appeal.

The family became involved with the Iowa Department of Human Services (DHS) in September 1996, when DHS received allegations of unsafe and unsanitary conditions in the home. The electricity had been turned off. The kitchen contained rotting food and many dirty dishes. The bathroom sink was not working. There were dog feces in the basement. There were also dangerous items, such as knives, accessible to the children. DHS issued a founded report of denial of critical care against Dewonnia.

The children were removed from the home and placed in foster care. They were adjudicated to be children in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2), (g), and (l). The children were returned to the mother's care in October 1996. Dewonnia was ordered to participate in family therapy and homemaker services.

In November 1996 DHS issued a founded report of denial of critical care due to unsafe and unsanitary conditions in the home. In April 1997 DHS issued a founded report of denial of critical care because Dewonnia had left the children in the care of

an older sibling and had not returned by the next day. The children were placed in foster care for about a week before they were returned to the mother.

In July 1997 Dewonnia lost her apartment and began living with relatives. One day a baby-sitter attempted to return the children to Dewonnia. Dewonnia appeared to be under the influence of drugs or alcohol. She asked the baby-sitter to take the children to her brother, even though there was a no-contact order prohibiting him from being with the children. The brother refused to accept the children. The baby-sitter then contacted the police, and the children were placed in foster care. DHS issued a founded report of denial of critical care.

Dewonnia had a drug test in August 1997 which was positive for cocaine. DHS offered her a substance abuse evaluation, a psychological evaluation, and family-centered services. She was uncooperative with services. Dewonnia's whereabouts were unknown for several months in late 1997. She did not have any visits with the children between July 1997 and February 1998.

Dewonnia was arrested in March 1998. She pled guilty to driving while suspended, credit card forgery, and aiding and abetting credit card forgery. She admitted she had been using crack cocaine. She was given a two-year suspended sentence. She was placed on probation. She was to participate in a work release program and treatment at a residential center for 180 days. Dewonnia had one visit with the children at the residential center. She was placed in a violator's program

after several rules violations and a drug test which showed positive for cocaine. No visitation was allowed while she was in the violator's program.

The children have done well in foster care. Dewon has some aggressive behavior and delayed communication skills. The foster parents are interested in adopting the children.

In July 1998 the State filed a petition for termination of Dewonnia's parental rights. At the time of the termination hearing, Dewonnia was again in the work release program at the residential center. The juvenile court terminated her parental rights under sections 232.116(1)(c), (d), and (e). The court found termination was in the best interests of the children. The parental rights of the children's fathers were also terminated. Dewonnia appealed.

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.A.*, 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).

Dewonnia contends the State did not engage in reasonable efforts to reunite her with the children. She asked to have more visitation with the children. DHS required her to participate in services before it would approve visitation. Dewonnia claims she could have received therapy and parenting skills sessions during visitation.

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 App. 1994). 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 App. 1997). The record shows Dewonnia requested additional visitation; thus, this issue is preserved for appellate review.

The reasonable efforts concept would broadly include a visitation arrangement designed to facilitate reunification while protecting the children from the harm responsible for the removal. *In re M.B.*, 553 N.W.2d 343, 345 (Iowa App. 1996). The nature and extent of visitation is controlled by the best interests of the children. *Id.*

We determine the decision not to allow visitation until Dewonnia complied with services was reasonable under the facts of the case. Dewonnia had the ability to increase her visitation at any time prior to her incarceration by complying with the requirements of the case permanency plan. Instead, she chose not to meet with service providers or complete a substance abuse evaluation or a psychological evaluation. In other words, the keys to greater visitation were in Dewonnia's hands. The State made reasonable efforts to reunite Dewonnia with her children.

We affirm the decision of the juvenile court terminating Dewonnia's parental rights to Dinzall and Dewon.

AFFIRMED.