IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

IN THE INTEREST OF C.M.B. and J.B., Minor Children,	)	
J.B., Mother,	)	8-449 88-762
Appellant.	)	

Appeal from the Iowa District (Juvenile) Court for Polk County (5846-12), Vincent Hanrahan, District Associate Judge.

The mother of C.M.B. and J.B. appeals the order terminating her parental rights with respect to J.B. **AFFIRMED.**

George Cosson, Urbandale, for appellant-mother.

Thomas J. Miller, Attorney General of Iowa; Gordon E. Allen, Deputy Attorney General; and Charles K. Phillips, Assistant Attorney General; for appellee-State.

James Blackburn, Des Moines, guardian ad litem for the children.

Considered by Schlegel, P.J., and Hayden and Habhab, JJ.

SCHLEGEL, J.

The mother appeals the order of the juvenile court terminating her parental relationship with J.B., her son, born on July 26, 1984. She claims there is insufficient evidence to show that J.B. cannot be returned to her custody.(1) We affirm.

We review proceedings to terminate a parent-child relationship de novo. We review the facts as well as the law and adjudicate the parent's rights anew. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981). Weight may be accorded to the findings of the juvenile court, particularly with regard to the credibility of witnesses. Id. Central to a determination of this nature are the best interests of the child. Id. In this connection we look to the child's long-range as well as immediate interests. Hence, we consider what the future likely holds for the child if returned to his or her parents. In making that decision, we are permitted to consider evidence of the parent's past performance, for that performance may be indicative of the

1. The caption of this case also includes a reference to J.B.'s older half-sister, C.M.B. Between the initiation of this action and the hearing, the mother and her husband, H.B., were divorced and the custody of C.M.B. was awarded to H.B., who now resides in Missouri. As a consequence, the termination action as to C.M.B. was continued, and the case proceeded to trial only on the petition as to J.B.

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quality of the future care that parent is capable of providing. Id.

Precedent is of little value. Each case must be decided upon its own facts. In Interest of S.V., 395 N.W.2d 666, 669 (Iowa App. 1986).

J.B. was initially brought to the attention of the Iowa Department of Human Services as a result of a physical abuse report. He had apparently been abused by his mother's brother, in whose care she had left J.B. He showed evidence of abuse on June 10, 1985, when he was approximately eleven months old. There was a bruise upon his forehead at that time. The mother took J.B. to her family doctor at that time, because she noticed blood on his penis. There was also a bruise on the child's penis, but we do not find that there was evidence from which it could be found that such trauma to the child's penis was the result of sexual abuse. Three days after the first visit to the doctor, a homemaker found that J.B. had two black eyes, multiple bruises on the forehead, older bruises on the chest, and a cigarette burn on the inner left thigh. It was these injuries that resulted in the abuse report with the mother's brother being the suspected abuser.

As a result of this abuse, J.B. was placed in emergency foster care, was ultimately adjudicated a child in need of

assistance, and was placed for long-term foster care. He has remained in foster care since that time.

The termination petition was brought on grounds set forth in Iowa Code section 232.116(1)(e) (1987), which reads:

> 1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:
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> * * *
>
> e. The court finds that all of the following have occurred:
>
> (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
>
> (2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months.
>
> (3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Upon hearing, the court entered an order terminating the parental relationship of both the mother and the putative father of J.B. The putative father has not appealed the termination of his parental rights.

The mother does not contest the first two elements of the statute. It is acknowledged that the child was adjudicated a child in need of assistance, and that he has spent at least twelve of the last eighteen months in foster care. She challenges the sufficiency of the evidence to

establish that the child cannot safely be returned to her custody. In addition, she contends the juvenile court erred by considering an allegedly unfounded report of sexual abuse, contends that the termination order may have been tainted by an allegedly racist comment in the written report of a family homemaker support worker, and argues that Iowa law now allows consideration of a child's integration into a foster family in the court's deliberation of whether or not to terminate, and it was thus error for the trial court not to consider the lack of bonding with the foster parents as mitigating against termination. 13

We have already stated that there was insufficient evidence in the record to establish an incident of sexual abuse. The bruise and blood on the little boy's penis was more likely the result of an adhesion, connected with his circumcision, according to the opinion of the treating physician. Consequently, we do not find sexual abuse as a proven event and give it no consideration in our de novo review.

As for the allegation that the termination order may have been tainted by an allegedly racial comment in a case worker's report, there is nothing in the court's ruling or order, and nothing in the record to hint that such a comment was (1) racist, or that (2) it in any way influenced either the court or the worker that rendered the report. The worker reported a conversation between the mother and

some men whom she and the worker encountered at a visit with J.B. The men were intoxicated and were smoking marijuana and asked the mother if she was still dating black men. The reporting of the comment was not shown to be racist on the part of the worker. In any event, in our de novo review, we give no consideration to the content of the question. The subject thereof is wholly irrelevant.

We also find the mother's argument concerning the trial court's failure to consider the lack of bonding in the foster home to be without merit. Central to our determination in termination matters is whether or not a child can be returned to a safe home environment, not whether the child can successfully remain in a foster home. Iowa Code § 232.116(1)(e)(3) (1987). See also In Interest of A.C., 415 N.W.2d 609, 614 (Iowa 1987) (temporary foster relationships must be designed with knowledge they will almost certainly end in separation).

This termination matter stands or falls upon whether we find there was sufficient evidence in the record--absent any finding of sexual abuse and based upon the relevant evidence--to show that J.B. cannot safely be returned to the mother's custody.

Of the greatest concern is the fact that the mother has been involved in relationships with abusive men. These relationships have resulted in physical abuse to her, and pose a danger for J.B. as well. The mother claims that she

has been involved in a nonabusive relationship for over a year. However, it appears that the relationship is not totally without confrontation and prospective violence. The apartment where she lives is not suitable for the upbringing of a child. The outside play area is littered with glass, car parts, and other items. She is subjected to exploitation by acquaintances. She does not have the parenting skills to care for J.B., and does not have the ability to protect herself or her son from violence and injury. While the most recent relationship seems to be an improvement from some of the violent instances in the past, we must be aware of her past situation in judging what the future holds in store for her and for J.B., should he be returned to her. In re Dameron, 306 N.W.2d at 745.

We find sufficient evidence in this record to support a finding that J.B. cannot be safely returned to the mother's custody. Her future ability to improve sufficiently to allow such a return of custody is not promising. J.B. has remained in foster care since his removal in June of 1985, a period of three and one-half years. He should not be required to remain in the parentless limbo of foster care. Long v. Long, 255 N.W.2d 140, 146 (Iowa 1977). He should not be required to endlessly await the maturity of his natural parent. In Interest of T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). An extension beyond the twelve-month period

demanded by statute in this case is not warranted, when the appropriate urgency is considered in this case. See Interest of A.C., 415 N.W.2d at 613.

The evidence in this case shows that J.B. cannot be safely returned to the custody of the mother. His best interests require that the parent-child relationship between the mother and J.B. be terminated.

AFFIRMED.