IN THE COURT OF APPEALS OF IOWA

No. 1999-115 (9-302) / 98-1315
Filed June 23, 1999

IN THE INTEREST OF
H.W.F., Minor Child,

J.M., Mother,

Appellant.

FILED
JUN 23 1999
CLERK SUPREME COURT

Appeal from the Iowa District Court for Warren County, John Crouch, Associate Juvenile Judge.

Mother appeals the termination of her parental rights to her son. **AFFIRMED.**

Lori Holm, Des Moines, for appellant.

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

Mike Bandstra, Des Moines, for appellee-father.

Kermit Dunahoo, Des Moines, guardian ad litem for minor child.

Considered by Huitink, P.J., Mahan, J., and Hayden, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1997).

PER CURIAM.

Mother appeals the termination of her parental rights to her son. She contends she did not receive adequate services prior to the termination and there were no reasonable efforts to reunite her with her son. We affirm the termination because the mother was unable to pass the urinalysis in order to see her son and she made no objection to lack of services until the termination hearing.

J.M. is the mother of H.W.F. who was born with methamphetamine in his system on December 23, 1996. J.M. admitted to using drugs throughout her pregnancy and had an extensive history of drug abuse. H.W.F. was immediately removed from J.M.'s care and placed in the care of his maternal aunt. On January 16, 1997, he was adjudicated in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and 232.2(6)(o) (1995). The child remained in the care of his aunt until February 24, 1997, when his aunt tested positive for amphetamines. H.W.F. was then placed with his father, R.F. R.F. has two older sons. R.F. and the three boys moved in with J.M.'s aunt and uncle who helped care for them while R.F. was at work. Following the child's birth he suffered from health problems relating to his prenatal drug exposure. He would have crying spells lasting for many hours and required some therapy to help with movement. At time of the termination hearing, H.W.F. had been living with his father for fifteen continuous months and his health problems had improved.

The mother was ordered by the court to complete a drug and alcohol evaluation and follow through with any recommended treatment. She completed the evaluation,

but did not complete the recommended treatment. The mother also attempted several drug treatment programs, but failed to complete any of them. She went to Gateway Center in Des Moines on two occasions for inpatient treatment and left both times against medical advice. She also went to Cedar Rapids for inpatient care at the Area Substance Abuse Counsel, but left after four weeks because her insurance would no longer pay for the treatment. She was allowed to have supervised visits with H.W.F. if she successfully gave two clean urinalysis. She was not able to give two clean urinalysis. She has seen H.W.F. two times since he has been in his father's care. This was before the court's order for her to provide two clean urinalysis. She failed to stay in contact with the DHS worker and the CASA volunteer. She moved several times, never telling the workers of her current addresses or telephone numbers. She rarely returned the telephone calls or responded to letters sent by the DHS or CASA. At no point during the time H.W.F. has been with his father has J.M. inquired as to her son or his well-being. She called the home several times, but never asked to visit H.W.F. or inquired about his welfare.

The termination hearing began on April 9, 1998 and concluded on April 23, 1998. Between these two dates, J.M. gave a positive urinalysis. J.M.'s parental rights were terminated pursuant to Iowa Code sections 232.116(1)(d) and 232.116(1)(g). She now appeals the termination of her parental rights. We affirm.

We review proceedings to terminate parental rights de novo -- we review the facts as well as the law and adjudicate parents' rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the findings of the juvenile court,

particularly with respect to the credibility of witnesses, but are not bound by them. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7).

The mother contends her parental rights should not be terminated because the State failed to use reasonable efforts to reunite her and H.W.F. She argues she received no services from the Department of Human Services. In order for J.M. to have visitations with H.W.F. she was required to give two clean urinalysis. J.M. asserts she was only given three opportunities since December 1997 to give a urinalysis. These tests cost $21.00, which J.M. claims she could not afford. We do not accept her argument.

The mother's parental rights were terminated on two separate statutory grounds, neither of which she contests on appeal. She does not contest the sufficiency of the evidence. She argues the State failed to provide her with reasonable reunification services. The State counters with the contention J.M. did not properly preserve the issue of inadequate services for appellate review. We agree. While the State has the obligation to make reasonable efforts, the parents have a responsibility to demand other, different or additional reunification services prior to the termination hearing. *In re C.D.*, 508 N.W.2d 97, 101 (Iowa App. 1993). Challenges to the plan for reunification should have come when the plan was entered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). It is too late to challenge the service plan at the termination hearing. *See In re C.D.*, 508 N.W.2d at 101. At no point prior to the termination hearing did the mother request more services. At the termination hearing

when asked if she could benefit from other services she stated, "Not at this time. I'm doing basically all the services that I can right now with parenting classes and my outpatient treatment and stuff like that." She made no objection to having to pay for her urinalysis and stated her father could pay for them. There was one occasion where she informed Garnett Campbell, a CASA advocate, she did not have the money to pay for the testing. However, this objection was not made to any other person, nor was it ever made again. It should be noted when the order was first issued, the urinalysis tests were free, yet J.M. failed to take part in the services. The CASA worker tried on several occasions to contact the mother to have her give a sample. She did not return telephone calls or respond to letters requesting urinalysis samples.

The reasonableness of reunification efforts is the proper focus of CINA hearings, not termination hearings. *In re B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993). The CINA hearing was in January 1997; the dispositional hearing was in March 1997; the CINA review hearing was in September 1997 and a Permanency Order was ordered in March 1998. J.M. did not raise the issue of reasonableness during any of these proceedings, nor did she appeal the CINA proceeding. Because she failed to raise the issue of services prior to the termination, she has not preserved the issue for appeal. We do not consider it.

The legislature has determined the interval for which patience with parents may last. "This period must be reasonably limited because patience on behalf of the parent can quickly translate into intolerable hardship for the children." *In re R.J.*, 436 N.W.2d 630, 636 (Iowa 1989). A child need not endlessly await the maturity of his

or her natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). H.W.F. has never been in the care of J.M. and he is now almost two years old. The mother has had ample time to seek drug treatment and become a responsible parent. H.W.F. is thriving under the care of his father and needs the permanency the termination will provide. We affirm the termination of J.M.'s parental rights to H.W.F..

AFFIRMED.

No. 98-1315. [1999-115 (9-302)] IN RE H.W.F.

Appeal from the Iowa District Court for Warren County, John Crouch, Associate Juvenile Judge. **AFFIRMED.** Considered by Huitink, P.J., Mahan, J., and Hayden, S.J. Per Curiam. (6 pages $2.40)

Mother appeals the termination of her parental rights to her son. J.M. is the mother of H.W.F. who was born with methamphetamine in his system on December 23,

No. 98-1315. [1999-115 (9-302)] IN RE H.W.F. (continued)

1996. H.W.F. was immediately removed from his mother's care and placed in the care of his maternal aunt. He was adjudicated in need of assistance in January 1997. H.W.F. remained with his aunt until February 1997, when she tested positive for amphetamines. H.W.F. was placed with his father, R.F. R.F. and his three sons moved in with J.M.'s aunt and uncle who helped care for the boys. H.W.F. was born with some health problems relating to his prenatal drug exposure; however, at the time of the termination hearing H.W.F. had been living with his father for fifteen months and his health was improving. J.M. was ordered to complete a drug and alcohol evaluation and follow through with therapy. J.M. did not complete treatment and only visited H.W.F. on two occasions since his removal from her care. J.M. was required to give two clean urinalysis tests before she could visit H.W.F., she failed to provide the clean tests. J.M.'s parental rights were terminated in April 1998. On appeal, J.M. contends the State failed to use reasonable efforts to reunite her with her son. She argues she received no services from DHS and she could not afford the urinalysis tests. **OPINION HOLDS:** J.M.'s parental rights were terminated on two separate statutory grounds, neither of which she contests on appeal. Her argument on appeal is the State failed to provide reasonable reunification services. The State has the obligation to make reasonable efforts, but the parents have the responsibility to demand services prior to the termination hearing. At no point prior to the termination hearing did the mother request more services. She testified at the time of the termination hearing she did not need any more services. Because J.M. failed to raise the issue of services prior to the termination, she has not preserved the issue for appeal and we do not consider it. H.W.F. has never been in the care of his mother and he is almost two years old. J.M. has had ample time to seek treatment and become a responsible parent. H.W.F needs the permanency the termination will provide. We affirm the termination of J.M.'s parental rights.