

IN THE COURT OF APPEALS OF IOWA

No. 1999-228 (9-452) / 99-97

Filed August 27, 1999

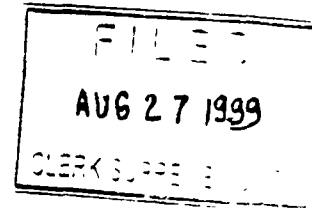
IN THE INTEREST OF

O.C.,

Minor Child,

M.C., Mother,

Appellant.



Appeal from the Iowa District Court for Woodbury County, Brian L Michaelson, Associate Juvenile Judge

Mother appeals from juvenile court order terminating her parental rights

AFFIRMED.

Richard Kallsen, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Mary K. Wickman, Assistant Attorney General, and Rhoda Tenuta, Assistant County Attorney, for appellee-State.

Lesley D. Rynell of the Juvenile Law Center, Sioux City, guardian ad litem and attorney 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 (1999)

000032

HAYDEN, S.J.

Maria is the mother of Oscar, who was born in September 1985. She appeals the decision of the juvenile court terminating her parental rights. Maria claims there is insufficient evidence to support the juvenile court decision and termination is not in the child's best interests. We affirm.

Maria is originally from Mexico. She moved to the United States in 1991, leaving Oscar in the care of relatives. Oscar was given little supervision and was sexually abused while out of his mother's care. Maria married while living in the United States and had another child.

Oscar was reunited with his mother in 1995. In March 1996, Maria was investigated for possible child abuse because of a scratch found on Oscar's neck. This incident was determined to be accidental. In May 1997, Maria beat Oscar with an extension cord. The Department of Human Services (DHS) issued a founded report of physical abuse against Maria. Oscar was removed from the home and placed in a group home. He was adjudicated to be a child in need of assistance under Iowa Code sections 232.2(6)(b) and (f).

Maria participated in family preservation services from June to August 1997. She was arrested for shoplifting in July 1997. Maria's primary language is Spanish, although she knows some English. Maria signed up for an English class. Maria participated in supervised visitation. Oscar was uncommunicative during visits, but acted appropriately. He demonstrated behavioral problems in the group home. He was belligerent and uncooperative while there.

In October 1997, Oscar was placed in a foster home. His behavior improved after he was placed on medication in December 1997. Maria began participating in individual counseling. Oscar also received counseling. In April 1998, DHS decided to increase Maria's visitation to include an unsupervised visit each week. Maria then missed two visits, and unsupervised visitation did not begin until June 1998.

Once unsupervised visitation began, Maria started to miss appointments with service providers and visits with Oscar. She stated she did not have time for visits. During one visit, Oscar saw Maria slap his half-brother on the hand. Oscar told a social worker he was afraid the abuse he experienced in the home would continue if he returned to the home. He stated he did not feel safe during unsupervised visits and no longer wanted to return home. Maria decided to quit participation in services. She stated she did not want increased visitation.

Maria canceled the visit on July 22, 1998. She did not have another visit until September 2, 1998. At that time she mainly ignored Oscar while she scrubbed her floor. Oscar started to cry. Maria did not comfort Oscar, but continued to clean her floor. There were no further visits. Maria remained adamant she did not want to participate in services. Maria called Oscar in October and November 1998. She told him the foster parents did not care for him and were keeping him from coming home.

Oscar's behavior improved dramatically once visitation ceased. Oscar would like to stay with his foster family. They have agreed to keep him on a long-term basis. DHS is also looking for an adoptive family for Oscar.

In October 1998, the State filed a petition to terminate Maria's parental rights to Oscar. The termination hearing was held in December 1998. The court found Maria's actions, as well as her recent comments to Oscar, showed a complete disregard for his emotional welfare. The court terminated Maria's parental rights pursuant to Iowa Code sections 232.116(1)(b), (c), (d), (e), and (h). Maria 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.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Maria contends the State did not present clear and convincing evidence to support termination of her parental rights. Section 232.116(1)(d) permits termination of parental rights where a parent has not maintained significant and meaningful contact with the child during the previous six months and has made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

Maria had only one visit with Oscar from July 1998 until December 1998. During the visit she did not interact with Oscar in a meaningful way. She did not comfort Oscar when he started to cry, but continued to ignore him. Maria called Oscar on four occasions in October and November 1998, but during these calls she just complained about the foster parents and DHS. These telephone calls were confusing for Oscar.

Maria has not participated in services since July 1998. She points to a Lutheran Social Services report which she believes shows she missed one appointment out of twelve from October to December 1998. This report, however, deals with appointments social workers had with Oscar, and does not show Maria had any contact with social workers during this time period. Maria has made no further efforts to resume care of Oscar. We hold Maria's parental rights were properly terminated under section 232.116(1)(d).

When the juvenile court terminated parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). Since we have found Maria's parental rights were properly terminated under section 232.116(1)(d), we need not address her claims regarding sections 232.116(1)(b), (c), (e), and (h).

Maria claims termination of her parental rights is not in Oscar's best interests. She claims her culture had made her reluctant to express her feelings, and additionally, made her distrustful of social workers. Maria believes Oscar should be returned to her home since his negative behaviors have been curbed by medication.

Even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the child. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of children, a court looks to the child's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional

condition and needs of the child in deciding whether to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

Maria asserts Oscar does not want to return home because the foster parents can offer him more material goods. The record shows Oscar wanted to be reunited with his mother until he saw her slap his half-brother, which caused him to remember the abuse he received at her hands. Since then Oscar is afraid to return to his mother's care.

Maria and Oscar do not have a strong parent-child bond. Oscar lived in Mexico with relatives for about four years and there was not a strong bond between him and Maria when the case started. Maria started to miss appointments with social workers and visits with Oscar when the DHS was attempting their reunification. At the same time the case started moving toward reunification. Maria has not made a sincere commitment to Oscar. We note Maria's husband was not committed to reunification--he did not participate in services or attend the termination hearing.

Taking all of these factors into consideration, we conclude it is in Oscar's best interests to terminate Maria's parental rights. Oscar should not be reunited with his mother when he is afraid of her. Additionally, his behavior has improved since visits with his mother ceased. We hold it is in Oscar's best interests to terminate Maria's parental rights.

We affirm the decision of the juvenile court terminating Maria's parental rights to Oscar.

AFFIRMED.

000037