IN THE COURT OF APPEALS OF IOWA

No. 8-244 / 97-2157
Filed May 29, 1998

IN THE INTEREST OF
M.H., Minor Child,

T.H., Mother,
Appellant.

Appeal from the Iowa District Court for Scott County, John G. Mullen, District Associate Judge.

Mother appeals the juvenile court's ruling terminating her parental rights over her minor child. **AFFIRMED.**

Scott H. Walters, Davenport, for appellant.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee-State.

Neill Kroeger, Davenport, guardian ad litem for minor child.

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

STREIT, J.

Tanya and Stan are the parents of Matthew, born May 18, 1995. The court terminated both parents' rights. Only Tanya appeals. She argues the court erred in finding the child could not safely be returned to her custody and the State had made reasonable efforts to reunite her with her child. We affirm.

In June 1996 Matthew was removed from Tanya's care based on a founded child abuse report of denial of critical care for giving Matthew beer in his bottle. In September 1996 the court adjudicated Matthew in need of assistance pursuant to Iowa Code section 232.2(6)(c)(2)(failure of the child's parent to exercise a reasonable degree of care in supervising the child). The juvenile court ordered Matthew continue in the custody of the Department of Human Services for placement in family foster care.

The family was referred to Family Preservation Services on May 23, 1996, with services in parenting skills, obtaining housing, and substance abuse evaluation. Between May 23 and June 20 Tanya twice refused to attend appointments to obtain an apartment. She stayed for a few days with her cousin, one night with her mother, and various other locations. Tanya and Matthew had continual problems with head lice, despite a four-hour session with two workers to treat the problem. Tanya was uncooperative with the services offered. Family Preservation Services ended its services on June 20, 1996.

Beginning in August 1996, Lutheran Social Services provided services to the family. The services concentrated on parenting skills and child development. Between February 1997 and April 1997 Tanya attended eight two-hour sessions in a parent skill development class. Not grasping the parenting skills and child development concepts, Tanya was tested. Psychological testing revealed she had average intelligence and no learning disability. Tanya scored in the borderline range for general fund knowledge, common sense reasoning, and psychomotor speed/sustained attention.

In July 1997 Matthew's guardian ad litem filed a petition for termination of parental rights. Following a hearing on October 23, 1997, the juvenile court found despite "some marginal improvement" the problems warranting the adjudication remained and Matthew could not be returned to Tanya's care. The court found reasonable efforts were made to reunite Tanya with Matthew. The court terminated Tanya's parental rights pursuant to Iowa Code Section 232.116(1)(g) (child under three, removed for at least six of the last twelve months, who cannot be returned to the parent's custody).

Appellate review of terminations is de novo. *In re E.K.*, 568 N.W.2d 829, 831 (Iowa App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa App.1995). The primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293

(Iowa App.1996). There is a rebuttable presumption the child's best interests are served by parental custody. *In re S.O.*, 483 N.W.2d 602, 604 (Iowa 1992).

On appeal, Tanya argues the court erred in finding Matthew could not safely be returned to her care. She contends she now has stable, safe housing, can provide suitable clothing for Matthew, and that her mother can help with child care. Tanya further notes that she has completed a parenting course and has been consistent in exercising visitation with Matthew. We consider what the future likely holds for the child if that child is returned to his parents. Insight for that determination may be gained from evidence of the parent's past performance, which may be indicative of the quality of the future care that the parent is capable of providing. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981); *In re T.T.*, 541 N.W.2d 552, 555 (Iowa App. 1995). Case history records are entitled to much probative force when a parent's record is being examined. *Id.*

At the time of the termination hearing, Tanya had been living for less than four months with her mother and her mother's paramour in a two-bedroom apartment. Just prior to moving in with her mother, Tanya had been evicted from her apartment after three months for nonpayment of rent. She had seven different residences between May, 1996 and the termination hearing. She had been fired from one job for tardiness and poor performance and quit another after one month. Tanya was the victim of domestic abuse from her boyfriend in June, 1997. Her continual changes in residence caused Tanya to lose her food stamps and medical card repeatedly. Tanya was not

eligible for transitional housing and other government housing would not accept her because she previously broke her lease. She had quit taking medication for her severe anemia and failed to follow through with necessary dental care. Even after receipt of services, Tanya could not identify Matthew's needs beyond the most basic needs of food, clothing, and shelter. "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). "Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable." *In re L.L.*, 459 N.W.2d at 495. The juvenile court correctly found Matthew could not be returned to Tanya's care at the time of the hearing.

Tanya also argues the court erred in finding the State made reasonable efforts to reunite her with Matthew. She maintains, among other things, she should have been offered home-based services. The State responds that Tanya failed to preserve error on the issue of whether reasonable efforts were made because she did not demand services prior to the termination hearing. Before termination, reasonable efforts to reunite a child and parent are required. *In re C.L.H.*, 500 N.W.2d 449, 453 (Iowa App. 1993). Parents also have an obligation to demand services before the termination hearing. *In re B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993). A parent's challenge to services should be made when they are offered, not on appeal. *In re C.D.*, 508 N.W.2d 97, 101 (Iowa App. 1993). We find Tanya's claim comes too late.

We also find reasonable services were offered. She received parenting services in at least two formats, yet made only minimal progress toward adequate parenting. Her arguments concerning home-based services are without merit because she moved so frequently. Also, she did not request home-based services prior to the termination. Matters not raised in the trial court, including constitutional questions, cannot be raised for the first time on appeal. *In re C.D.*, 508 N.W.2d 97, 100 (Iowa App. 1993).

In Matthew's best interests, he cannot be returned to Tanya. Tanya received reasonable services. The trial court correctly terminated her parental rights.

AFFIRMED.

Mahan, J., concurs, Sackett, P.J., concurs specially without opinion.