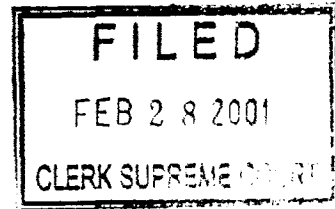


IN THE COURT OF APPEALS OF IOWA

No. 0-842 / 00-1055
Filed February 28, 2001

IN RE S.D.,
Minor Child,

K.D., Mother,
Appellant.



Appeal from the Iowa District Court for Polk County, Karla J. Fultz,
Associate Juvenile Court Judge.

The mother of minor child S.D. appeals a district court order terminating
her parental rights. **AFFIRMED.**

Tiffany Koenig, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Tabitha Gardner, Assistant Attorney
General, and Thomas A. DeSio, Assistant County Attorney, for appellee State.

Pamela A. Vandel, Des Moines, guardian ad litem for minor child.

Heard by Sackett, C.J., and Zimmer and Miller, JJ.

ZIMMER, J.

A mother appeals from a district court order terminating her parental rights. She claims the juvenile court erred in concluding there was clear and convincing evidence to terminate her parental rights. Additionally, she argues termination was not in the best interests of the child.

Karri D. is the mother of Samantha D., born in May of 1990. Samantha has never had any contact with her putative father. At various times throughout Samantha's life, Karri was homeless and involved in an abusive relationship with her common law husband, Rick.

In February of 1996, Samantha first came to the attention of the Iowa Department of Human Services after Karri took Samantha outside in freezing temperatures while dressed in only pajamas and socks. That same month, there was another report of denial of critical care after Karri took Samantha out in the cold and became lost.

In April of 1996, a Child in Need of Assistance (CINA) petition was filed with the district court. The parties stipulated to Samantha's CINA status at the adjudicatory hearing in June, 1996. Samantha was placed in the temporary legal custody of Diane, who had previously been appointed guardian of Samantha's two half-siblings. Diane is the spouse of Karri's former husband. At the permanency hearing in September of 1997, Diane was granted guardianship of Samantha. Throughout these proceedings, Karri has been allowed supervised visitation with Samantha.

Over the next several years, Karri failed to meet the requirements of her case permanency plan. While she completed a psychiatric evaluation, she failed

to attend the recommended counseling sessions and discontinued her use of anti-psychotic medication. Karri's difficulties with homelessness continued as she failed to secure permanent housing for herself. Karri also continued her abusive relationship with Rick, who in May of 1999 injured her so severely she needed surgery. When Rick was arrested for the abuse, Karri used her rent money to bond Rick out of jail despite the issuance of a no contact order.

While Karri attended weekly supervised visitations with Samantha, she exhibited inappropriate behavior with her daughter, like carrying her around as though she were a baby, referring to her as "the baby" and using baby talk. Karri often discussed inappropriate subjects with Samantha. Karri also allowed Samantha to behave inappropriately and would make excuses for Samantha's behavior. Because of the ongoing need to intervene and protect Samantha, DHS workers were unable to allow partially supervised visits.

Additionally, Karri exhibited a lack of self-control. In 1999, she was twice arrested for disorderly conduct and harassment of a public official. In November of 1999, Karri displayed belligerent behavior when she entered Generations and began yelling at staff and making a scene. Diane also reported that on occasion Karri would threaten to show up at Samantha's school and make a scene.

In contrast, Samantha thrived in foster care. Her coping skills improved while her oppositional behaviors decreased. Samantha was doing well in school and participating in extra curricular activities. An evaluation by a psychologist revealed Samantha would benefit from being adopted by Diane and concluded adoption would be the best scenario for her.

A termination petition was filed on April 5, 2000. At the termination hearing, a DHS worker testified Karri had not completed most of the permanency plan recommendations during the previous four years. At the time of the hearing, Karri was homeless and had been prohibited from staying at the local shelters because of inappropriate behavior. Although Karri admitted she has many issues to resolve, she did not ask DHS for any additional services.

On April 27, 2000, the court terminated Karri's parental rights under Iowa Code sections 232.116(1)(c), (d) and (e). Karri appeals.

I. Scope of Review. We review proceedings to terminate a parent-child relationship de novo. *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa Ct. App. 1998). Our primary concern is the best interests of the child. *Id.* We look at both the child's long-range and immediate interests in making this determination. *Id.* We necessarily consider what the future likely holds for the child if returned to his or her parent. *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989) (citation omitted). Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that parent is capable of providing. *Id.* (citation omitted). The grounds for termination must be shown by clear and convincing evidence. *M.N.W.*, 577 N.W.2d at 875.

II. Sufficiency of the Evidence. Karri contends the State failed to meet its burden. The juvenile court terminated her parental rights pursuant to Iowa Code sections 232.116(1)(c), (d) and (e). Section 232.116(1)(c) provides for termination of parental rights if:

- c. The court finds that both of the following have occurred:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Karri argues the last element of the subsection has not been met.

We find clear and convincing proof of these elements. The conditions that led to the CINA adjudication continued to exist. Karri did complete some of the services she was offered, like weekly visitation and a psychological evaluation. However, she continued to be involved in an abusive relationship with Rick and refused any further counseling to help her address that issue. She also discontinued the use of an anti-psychotic drug that had been prescribed to her. Karri has not maintained regular employment or a residence. She also resisted the suggestions of DHS workers regarding setting appropriate rules and maintaining appropriate boundaries with Samantha. At the time of trial, Samantha had been in foster care for four years, yet Karri had made only minimal progress. We affirm the termination of Karri's parental rights to Samantha.

Karri contends the services provided were insufficient because the goal of the services changed after permanency was established. We find error has not been preserved on this issue. A challenge to the sufficiency of the services should be raised at the removal or review hearing or when the services are offered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994). It is too late to

challenge the service plan at the termination hearing. *Id.* No evidence appears in the record Karri challenged the services at the appropriate times. Therefore, we decline to address this issue.

Because we find clear and convincing evidence termination was appropriate under section 232.116(1)(c), we decline to address Karri's arguments regarding subsections (d) and (e). Where parental rights are terminated on several grounds, we need only find sufficient evidence under one of the sections in order to affirm the termination. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996) (citation omitted).

III. Best Interests of the Child. Karri asserts termination of her parental rights is not in Samantha's best interest. She argues she has established a bond with Samantha over ten years and that bond is beneficial and should be allowed to continue.

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 a child, the 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 to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996).

Termination of Karri's parental rights is in the best interest of Samantha. Karri has a substantial history of neglect and abuse of her children, starting with Samantha's half siblings and continuing with her. She has failed to correct the deficiencies and problems that resulted in Samantha's adjudication as a child in

need of assistance. Karri has also failed to take advantage of the services that have been offered to her over the four year period. While the law requires a “full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” this patience has been built into the statutory scheme of chapter 232. *In re A.C.*, 415 N.W.2d 609, 613-14 (Iowa 1987). Children should not be forced to endlessly await the maturity of a natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1987). “At some point, the rights and needs of the child rise above the rights and needs of the parent.” *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997).

Samantha’s psychological evaluation revealed she felt some loyalty and attachment to Karri. However, she also expressed a lot of confusion over her relationship with her mother. While Samantha viewed her relationship with Diane and her siblings very positively and was confident about their love and affection for her, the psychologist noted she was more vague and defined more precarious feelings regarding her relationship with Karri.

Samantha described her primary relationship in terms of her attachment to Diane. Indeed Samantha has thrived in Diane’s care. The psychologist determined adoption by Diane would be beneficial to Samantha. She also noted Samantha was positive in her discussions regarding the adoption. Allowing Samantha the opportunity to be adopted by Diane is in her best interest.

We affirm the decision of the juvenile court terminating Karri’s parental rights to Samantha.

AFFIRMED.