IN THE COURT OF APPEALS OF IOWA

No. 8-059 / 97-1798

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FILED
FEB 25 1998
CLERK SUPREME COURT

IN THE INTEREST OF S.M.H., T.L.H., and C.R.H., Minor Children,

R.H., Mother,

Appellant.

Appeal from the Iowa District Court for Woodbury County, Mary L. Timko, Judge.

A mother appeals the termination of her parental rights to her minor children.

AFFIRMED.

Martha M. McMinn, Sioux City, for appellant.

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

Thomas A. Vakulskas, Sioux City, for appellee R.S., father of T.L.H.

Marchelle Roberts, Juvenile Law Center, Sioux City, guardian ad litem for minor children.

Considered by Cady, C.J., and Sackett and Mahan, JJ.

MAHAN, J.

Roxanne is the mother of Stacy, born in January 1988; Travis, born in October 1989; and Cody, born in November 1994. Terry is the father of Stacy. Terry is also Roxanne's brother. Richard is the father of Travis. Cody's father is Melvin.

Roxanne comes from a dysfunctional family. Roxanne was sexually abused by her brother, Terry, and this resulted in the birth of Stacy. Terry also sexually abused a younger sibling, and spent time in prison for this crime. Roxanne and her parents received services from the Department of Human Services (DHS) in 1989.

Roxanne and her children came to the attention of DHS again in May 1995, when school officials reported Stacy was engaging in inappropriate sexual conduct. Stacy was having problems dealing with sexual abuse by a neighbor. Roxanne refused to take Stacy to therapy. DHS issued a founded report of denial of critical care due to this refusal and because Roxanne had been allowing Terry to have contact with Stacy. Stacy was removed from the home and placed in foster care.

The children were adjudicated to be children in need of assistance. The court ordered Roxanne to obtain a psychiatric evaluation and attend recommended therapy. She was also ordered to participate in a parenting instruction program. Roxanne has low intellectual functioning. She has been diagnosed with an adjustment disorder.

While Stacy was in foster care she revealed she had been sexually abused by Terry. DHS issued a founded report of sexual abuse. Roxanne and her parents did not believe Stacy had been sexually abused by Terry.

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Roxanne received in-home services, but still had problems supervising Travis and Cody. Roxanne often did not pay much attention to Stacy during visits. Roxanne rejected suggestions from social workers. In February 1996, she threatened to take the boys to another state. Travis and Cody were then removed from her care. Travis was placed with his paternal grandparents and Cody was placed in the same foster home as Stacy.

Roxanne participated in supervised visitation with the children, but had a difficult time interacting with the children. Roxanne was living with her parents in a mobile home. She continued to be very enmeshed with her family of origin. Roxanne participated in individual therapy and began to attend group therapy. However, she did not address any issues regarding past sexual abuse.

In May 1997, the State filed a petition for termination of the parental rights of Roxanne, Terry, and Melvin. At the termination hearing Roxanne testified she now believed Stacy had been sexually abused by Terry. The juvenile court terminated Roxanne's parental rights to Stacy, Travis, and Cody pursuant to Iowa Code sections 232.116(1)(e), (g), and (h). The parental rights of Terry and Melvin were also terminated. Only Roxanne has appealed.

The scope of review in termination hearings 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 children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Roxanne contends the State did not offer her sufficient services to allow her to become reunited with her children. She claims services should be offered for a longer period of time to allow her to continue to progress. She also asserts DHS expected her to disassociate herself from her family of origin, but did not provide her with any assistance to reach this goal.

Parents have an obligation to demand services prior to the termination hearing. *In re B.K.*, 500 N.W.2d 54, 57 (Iowa 1993). Services should be challenged when the case plan is entered. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). We find no evidence Roxanne requested additional services prior to the termination hearing. We determine Roxanne has not sufficiently preserved this issue for our review.

If we were to address this issue on the merits, we would find Roxanne received reasonable services. Roxanne did not fully participate in the services which were provided. In addition, it was Roxanne's decision to move back with her parents. She has not recognized the problems with her family of origin.

We affirm the decision of the juvenile court terminating Roxanne's parental rights to Stacy, Travis, and Cody. We find termination is in the children's best interests.

AFFIRMED.

Cady, C.J., concurs; Sackett, J., specially concurs.

SACKETT, J. (specially concurring)

I concur with the majority. Termination is the only answer. However, I cannot find, as did the majority, it is in the children's best interests. These children's best interests disappeared long ago. Termination is the least detrimental alternative available to us.