IN THE COURT OF APPEALS OF IOWA

No. 0-768 / 00-1180
Filed January 24, 2001

FILED
JAN 24 2001
CLERK SUPREME COURT

IN THE INTEREST OF
A.E. and E.E.,
Minor Children,

B.E., Mother,
Appellant,

IN THE INTEREST OF
K.L.K.,
Minor Child,

B.E., Mother,
Appellant.

Appeal from the Iowa District Court for Dickinson County, David C. Larson, District Associate Judge.

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

Priscilla Forsyth of Forsyth Law Office, Spirit Lake, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, and Jack Bjornstad, Assistant County Attorney, for appellee-State.

Shannon Sandy of Sandy Law Firm, P.C., Spirit Lake, for minor children.

Considered by Zimmer, P.J., and Hecht and Vaitheswaran, JJ.

ZIMMER, P.J.

A mother appeals the decision of the juvenile court terminating her parental rights to her three minor children. She claims there is insufficient evidence to show the children could not be returned to her care. She also claims termination is not in the best interests of the two oldest children. We affirm.

Bonnie is the mother of Amber, born in May 1985; Edward, born in February 1989; and Kolton, born in July 1999.[1] Bonnie's child, Ciara, was killed by a paramour, Matt, in 1996. Another of Bonnie's children, Kyler, died in 1999, from injuries received from a different paramour, Korey.

Bonnie first began her involvement with the Department of Human Services (DHS) in 1991. DHS issued a founded report of denial of critical care for allowing an inappropriate caretaker, a boy who had been sexually abused, to watch Amber and Edward, which resulted in the sexual abuse of Amber. Bonnie agreed to services and Amber participated in play therapy. In 1992, DHS again issued a founded report of denial of critical care because Bonnie used an inappropriate caretaker, a mentally disabled boy, to watch her children.

As noted above, in 1996, Ciara, who was then two and one-half years old, was murdered by Bonnie's paramour, Matt. Bonnie knew Matt was a sexual offender when she began to live with him. DHS issued a founded report of physical abuse by omission and denial of critical care against Bonnie for allowing Matt to care for the children. Amber and Edward were removed from Bonnie's care and placed in foster care. They were adjudicated to be children in need of assistance.

---

[1] We affirmed the termination of the parental rights of Kolton's father, Korey, in a previous case, *In re K.L.K.*, No. 0-560/00-0466 (Iowa App. Oct. 25, 2000).

Bonnie participated in services for a period of time, but then became uncooperative. She became involved with Korey. This relationship involved domestic abuse. Bonnie had a child, Kyler, with Korey in November 1997. In March 1998, Kyler received severe head injuries from Korey. He was in a coma for sixteen months before he died. Bonnie remained involved with Korey.

In May 1998, while Bonnie was having unsupervised weekend visitation with the children, the boyfriend of the maternal grandmother took nude photographs of Amber. The boyfriend was charged with sexual exploitation of a minor. Visits were changed to supervised. In December 1998, the State filed a petition to terminate Bonnie's parental rights to Amber and Edward. The termination was later dismissed and the parties agreed the children should be placed in the care of Amber's father, Lloyd. The juvenile court entered a permanency order to this effect.

Korey was convicted of child endangerment concerning the injuries to Kyler. He was sentenced to a term of imprisonment not to exceed ten years. Bonnie and Korey are the parents of Kolton, who was born in July 1999. Bonnie received daily services to help her care for Kolton. In regard to Bonnie, Kolton was adjudicated to be a child in need of assistance pursuant to sections 232.2(6)(b) and (c)(2). About a month after he was born, Kolton was removed from Bonnie's care and placed in foster care.

The State filed a petition to terminate Bonnie's parental rights to Amber and Edward in September 1999. Bonnie participated in supervised visitation with Kolton. She attended individual therapy and parenting classes. Bonnie had a psychological evaluation, which found she was chronically maladjusted,

narcissistic, and rather self-indulgent. In March 2000, the State filed a petition to terminate Bonnie's parental rights to Kolton.

A joint hearing on the two termination petitions was held in May 2000. The juvenile court terminated Bonnie's parental rights to Amber and Edward under section 232.116(1)(e). The court found termination was in the children's best interests because they remained confused and needed closure. The court terminated Bonnie's parental rights to Kolton under section 232.116(1)(g). The court found Bonnie had not made sufficient progress to allow Kolton to be returned to her care. Bonnie appeals.

I. Scope of Review

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa App. 1999). Our primary concern is the best interests of the children. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. Sufficiency of the Evidence

A. Amber and Edward

Bonnie contends the State did not present sufficient evidence to warrant termination of her parental rights to Amber and Edward. She claims the State has failed to show the children could not be safely returned to her care at the present time, which is an element of section 232.116(1)(e). Bonnie does not actually ask to have the children returned to her care. She agrees the children should remain living with Lloyd. She asserts, however, she could adequately care for the children if they were returned to her care.

While we recognize the law requires a full measure of patience with troubled parents who attempt to remedy a lack of parenting skills, Iowa has built this patience into the statutory scheme of Iowa Code chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). Once the limitation period lapses, termination proceedings must be viewed with a sense of urgency. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). At some point, the rights and need of the children rise above the rights and needs of the parents. *J.L.W.*, 570 N.W.2d at 781. A good prediction of future conduct of a parent is to look at the parent's past conduct and motivation. *T.B.*, 604 N.W.2d at 662; *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998).

We find the State has presented sufficient evidence to show Amber and Edward could not be safely returned to Bonnie's care. Bonnie began her involvement with DHS in 1991. She has received many services over a long period of time. The evidence presented at the termination hearing showed Bonnie continued to be involved with inappropriate men. There were many questions about Bonnie's honesty. Although she had previously testified she had no contact with Korey, there was evidence she had received many telephone calls from him while he was in prison. Bonnie told a friend she believed Korey was innocent. There was also evidence she had recently engaged in sexual relations with a man she knew to have violent tendencies. Bonnie is not now better able to protect her children than she was in the past.

B. Kolton

Bonnie also claims the State did not present sufficient evidence to justify terminating her parental rights to Kolton. Bonnie asks to have Kolton returned to

her care. She states she has learned from the tragedies of the past, and is now able to parent Kolton in a responsible manner.

For the reasons discussed above concerning Amber and Edward, we determine the State presented clear and convincing evidence to show Kolton could not safely be returned to Bonnie's care. Kolton remains at risk because of Bonnie's continued involvement with inappropriate male companions who present a danger to her children. The juvenile court properly terminated Bonnie's parental rights to Kolton.

III. Best Interests

Bonnie asserts termination of her parental rights to Amber and Edward is not in their best interests. Bonnie is currently having only telephone contact with these children. She feels this contact is beneficial to the children, 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 App. 1996).

Termination of Bonnie's parental rights is in the best interests of Amber and Edward. Amber's counselor testified Amber was willing to accept termination. Lloyd testified Edward wanted to be adopted and he was willing to adopt him. The children need permanency. They have expressed a need to

move on with their lives, and put the trauma of their lives with Bonnie behind them.

We affirm the decision of the juvenile court terminating Bonnie's parental rights to Amber, Edward, and Kolton.

AFFIRMED.