IN THE COURT OF APPEALS OF IOWA

No. 5-249 / 94-2030

FILED
JUN 27 1995
CLERK SUPREME COURT

IN THE INTEREST OF J.C.C. and A.C., Minor Children,

R.B.P., Mother,

Appellant.

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

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

John S. Moeller of O'Brien, Galvin, Moeller & Neary, Sioux City, for appellant.

Thomas J. Miller, Attorney General; Gordon E. Allen, Deputy Attorney General; Kathrine S. Miller-Todd, Assistant Attorney General; and Rhoda Tenuta, Assistant County Attorney, for appellee-State.

Michael O'Brien, Juvenile Law Center, Sioux City, guardian ad litem for minor children.

Considered by Donielson, C.J., and Habhab and Huitink, JJ.

DONIELSON, C.J.

Richelle appeals the termination of her parental rights. We affirm.

I. STANDARD OF REVIEW.

We utilize de novo review in determining if there is clear and convincing evidence to support the termination of parental rights. *In re S.A.*, 502 N.W.2d 23, 25 (Iowa App. 1993). A child's rights and needs are paramount in termination proceedings. *Id.* The primary concern is the best interests of the children.

> We look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. 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 the parent is capable of providing. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

In re R.M., 431 N.W.2d 196, 199 (Iowa App. 1988) (citations omitted).

II. TERMINATION OF RICHELLE'S PARENTAL RIGHTS.

Richelle is the mother of Julian and Adrian, the subjects of this termination action. Julian was born July 5, 1990, and Adrian was born August 3, 1991. Julian has been diagnosed with fetal alcohol syndrome and Adrian exhibits symptoms of fetal alcohol syndrome.

Richelle is also the mother of four older children. Her parental rights to those children were terminated on March 4, 1993. Richelle is the mother of a younger

daughter born May 31, 1994. Richelle moved to Minnesota before the birth of this daughter, and that child is presently in Richelle's care.

Richelle allowed her four older children to be cared for by her adoptive father, a man who had sexually abused Richelle as a child. At the time Richelle's four older children were removed from her father's care, they were poorly supervised, had flea and roach bites, were infested with head lice, and smelled of urine. Richelle had a history of drug and alcohol problems, and, as a result, she did not initially resist the removal or seek the return of her older children.

Richelle was physically abusive with her older children: In 1989 she broke the leg of one of the children because she had become frustrated with the child's inability to keep still when she was changing his diaper. Richelle has an explosive temper and cannot cope with the normal needs and behaviors of young children.

A Child in Need of Assistance ("CINA") petition pertaining to Julian and Adrian was filed on November 13, 1992. They were adjudicated children of need of assistance on April 15, 1993. From the time the CINA petition was filed until January 13, 1994, Julian and Adrian remained in Richelle's custody subject to the protective supervision of the Department of Human Services ("DHS").

Despite over a year of DHS services directed at improving Richelle's parenting of Julian and Adrian, Richelle continued to engage in many of the same behaviors which led to the termination of her parental rights to her older children. She entrusted the care of Julian and Adrian to her father. She continued to be involved with abusive

men and was the victim of domestic assaults in April and September 1993. DHS records reflect that for much of 1993 Richelle kept an unsanitary home in which cockroaches and rats were present. Richelle was not consistent in participating in various aftercare, parenting, and homemaker services provided by DHS.

Richelle was often hostile to the provision of DHS services. She had a pattern of becoming cooperative and compliant with DHS services and court orders only when court action was imminent. On one occasion Richelle lied to DHS authorities in order to assist a man with whom she was involved in avoiding the payment of his child support.

During the course of the December 28, 1993, dispositional hearing, Richelle indicated she had intentionally become pregnant with her seventh child because Julian (then three and a half years of age) and Adrian (twenty-eight months old) "don't need her as much as they use to," and she wanted "another chance because of past mistakes." The record reflects that Richelle has a disturbing view of when her children became independent and no longer need her. The juvenile court found this view to be frightening and it noted Richelle has a history of turning the care of her children over to others once they are no longer infants.

Custody of Julian and Adrian was transferred to DHS on January 13, 1994. Shortly thereafter Richelle informed her caseworker she had married Juan and they were moving to Minnesota. Juan has a substance abuse problem and was physically abusive to Richelle. At the December 28, 1993, dispositional hearing Richelle had

testified she would continue to be fearful of Juan until he had completed a program for batterers. As of the October 13, 1994, termination hearing, Richelle testified she had no fear of leaving her children in Juan's care, but she was still fearful for herself and would like her husband to undergo counseling for anger problems.

Richelle told her caseworker she and Juan were moving to Minnesota in order to prevent the State of Iowa from eventually removing the child with whom she was presently pregnant. By moving to Minnesota Richelle rendered herself unavailable to receive DHS services or to have her progress monitored by DHS. Initially, Richelle returned to Iowa on a weekly basis to visit her sons. However, she did not visit them from approximately June 17 until September 4, 1994. She claimed she missed visits during that time period due to her lack of transportation. However, consistent with her prior pattern of conduct, Richelle resumed her visitation shortly before the scheduled hearing to terminate her parental rights.

On November 8, 1994, Richelle's parental rights were terminated pursuant to Iowa Code sections 232.116(1)(c), (d), (f) and (g). On appeal, she contends there was not sufficient evidence to support terminating her parental rights on any of those grounds. In affirming the termination of Richelle's parental rights, we address only the provisions of section 232.116(1)(f) and express no opinion as to the merits of Richelle's challenges based on the other statutory provisions.

Iowa Code section 232.116(1)(f) (1993) provides parental rights may be terminated when --

> (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
>
> (2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family.
>
> (3) There is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation.
>
> (4) There is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.

Richelle does not dispute elements (1) and (2) of this statute have been established. She argues the State has failed to prove she lacks the ability or willingness to respond to services and an additional period of rehabilitation would correct the situation. She points to her cooperation with service providers in Minnesota and contends she is steadily becoming more able and willing to adequately care for her children.

The social services Richelle initiated in Minnesota are not comparable to those she was receiving in Iowa. They address only the needs of her new baby and not those of Julian and Adrian. Richelle has an abysmal history of not fully utilizing DHS services which could enable her to better provide for her children's needs. Shortly after Julian and Adrian were removed from her care, Richelle opted to marry her abusive boyfriend and leave the State. Complying with her case permanency plan and reuniting with her sons were clearly not priorities in her life.

Richelle is still clearly mired in the patterns of the past which caused the termination of her parental rights to her four oldest children. There is no evidence this pattern has been broken. Given this record, we conclude there was clear and convincing evidence Richelle lacks the ability and willingness to respond to services and an additional period of rehabilitation would not correct the situation. The termination of her parental rights is affirmed.

AFFIRMED.