IN THE COURT OF APPEALS OF IOWA

FILED
FEB 28 1995
CLERK SUPREME COURT

No. 4-615 / 94-1319

IN THE INTEREST OF B.A.N.R. AND T.L.R.K.,

Minor Children.

M.F.K., Mother,

Appellant.

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

The mother, M.F.K., appeals from a termination of her parental rights to B.A.N.R. and T.L.R.K. **AFFIRMED.**

Todd E. Babich of Babich, McConnell & Renzo, P.C., Des Moines, for appellant mother.

Bonnie J. Campbell, Attorney General, Gordon E. Allen, Deputy Attorney General, Judy Sheirbon, Assistant Attorney General, and Michelle Chenoweth, Assistant County Attorney, for appellee.

Christine Bisignano, Des Moines, guardian ad litem for minor children.

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

CADY, J.

Monica appeals a juvenile court order terminating her parental rights to her daughters Beth and Taylor. The fathers of these children take no part in this appeal. Upon our review of the record, we affirm the juvenile court's order.

Monica is a twenty-six year-old woman with an extensive history of mental illness and polysubstance abuse problems. She has been hospitalized approximately twenty times since 1984 as a result of these problems. Her diagnoses include bi-polar affective disorder, schizophrenia, and borderline personality disorder. Her drug and alcohol abuse have complicated her mental illness.

Monica's rights to her son, Daniel, were terminated in 1990. The termination resulted from her failure to comply with the case permanency plan, refusal to take her medication, failure to complete substance abuse treatment, and inability to perform basic parental responsibilities.

Monica's daughter, Beth was born August 25, 1992. In September 1992, concerns arose regarding Monica's care of Beth and family preservation services were implemented. In April 1993, Monica took Beth to the emergency room at Mercy hospital. Beth had serious ear and respiratory infections, and the hospital wanted to admit her. Monica, however, refused and left with Beth. Monica and Beth were eventually found by the police in an abandoned building.

Monica was arrested and charged with child endangerment. While in jail, she exhibited bizarre behaviors including a suicide attempt and was hospitalized. Beth was placed in foster care and subsequently adjudicated a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b), (6)(c)(2), (6)(e), and (6)(n) (1993).

Taylor was born September 5, 1993. Due to Monica's mental health and poor parenting history, Taylor was adjudicated CINA in October 1993, one month after her birth. She was placed in foster care.

In November 1993, Monica admitted herself into a dual diagnosis drug treatment center. She completed the center's program but her mental health problems prevented further progress. She was referred to a 24-hour supervised residential mental health facility while she awaited placement in a group care facility. Monica has regularly taken her medication and refrained from alcohol and nonprescription drugs while residing in the residential facility. She has, however, refused to participate in psychotherapy.

In January 1994, the State filed a petition seeking termination of Monica's rights to Beth and Taylor. Following a trial, the district court concluded Monica had a ten-year history of mental illness and substance abuse, and that she was not ready to parent today or in the foreseeable future. The court found Monica was previously uncooperative with services. The court, however,

recognized Monica's recent stability and cooperation but believed this would only facilitate meeting her own basic needs. The court was concerned that Monica did not recognize she has a mental illness and that taking her medication is an absolute necessity. The court felt a relapse was likely, if not inevitable, and the risk of harm to the children was high. Monica's rights to Beth and Taylor were terminated pursuant to Iowa Code sections 232.116(1)(c), (1)(g), and (1)(j)(1993).

Monica appeals. She asserts she is more stable then she has ever been and is committed to remedying her past difficulties. She has been taking her medications, been substance free, and voluntarily remained in the drug-treatment facility for over three months. She requests additional time to attempt to preserve her parental rights.

Our scope of review in termination proceedings is de novo. In re A.C., 415 N.W.2d 609, 613 (Iowa 1987). We give weight to the findings of the trial court, particularly when considering the credibility of witnesses, but are not bound by them. In re Z.T.D., 478 N.W.2d 426, 427 (Iowa App. 1991).

Our paramount consideration in termination proceedings is the best interests of the child. In re V.M.K., 460 N.W.2d 191 (Iowa App. 1990). In evaluating what is best for the child we look to both the child's long range and immediate interests. Id. We also look to the past

performance of the parent because it provides insight into the quality of care the parent is capable of providing in the future. In re A.M.S., 419 N.W.2d 723, 726 (Iowa 1988).

The juvenile court terminated Monica's parental rights pursuant to Iowa Code sections 232.116(c), (1)(g), and (1)(j). Although each of these sections have separate statutory requirements the only disputed requirement is whether there is clear and convincing evidence the child cannot be returned to the custody of the child's parents because the circumstances which led to the CINA adjudication still exist.

Monica argues the juvenile court abused its discretion when it terminated her parental rights despite the substantial *progress* she had made in controlling her mental illness and substance abuse problems. Although we applaud Monica's progress we cannot agree with her conclusion.

Monica's previous inability to parent her children was unquestionably caused by her mental illness, failure to take her medication, and abuse of drugs and alcohol. When Monica fails to take her medication, she is unstable, lacks judgment, and undertakes bizarre behavior. In this state, she is unable to care for herself much less for her children.

Over the past ten years, Monica has developed a pattern of entering the hospital for treatment, stabilizing, and then failing to take her medications and abusing drugs and

alcohol when she is released. Monica's recent stability shows only that she can maintain herself when she is in a structured setting with twenty-four hour care, is regularly given her anti-psychotic medication and mood altering medication, and has no access to illegal drugs. It does not, however, prove she has the ability to care for two young children; nor does her current living arrangement allow children to reside with their parents.

Each of the witnesses testified Monica could not meet her children's basic physical, mental, and emotional needs now or in the near future. Monica would have to participate in parent skills instruction and several years of consistent psychotherapy and stable living with medication before she could possibly parent her children. As of trial, however, Monica was not capable of benefiting from parent skill instruction and refused to undergo psychotherapy.

Additionally, Monica does not recognize she has a mental illness and medication is necessary to control it. She believes her primary problem is alcohol and drug abuse and testified she functions better without medication. She is also unaware of how her behavior affects her children and their need for a stable nurturing environment.

Based on Monica's history and the expert testimony, we conclude she would be unable to maintain her current stability and provide for herself and daughters if she is allowed to resume their care. See In re K.F., 437 N.W.2d

559, 563 (Iowa 1989). The State has proven by clear and convincing evidence Beth and Taylor cannot be reunited with Monica now or in the foreseeable future without being subject to adjudicatory harm.

At the time of trial, Beth had been in foster care eleven out of the nineteen months of her life and Taylor had been in foster care since birth. The children are thriving in their foster homes and their foster parents are considering adoption. The crucial days of childhood cannot be suspended any longer while Monica attempts to cope with her own problems. In re A.C., 415 N.W.2d at 613. These children deserve a safe, healthy, and stimulating environment in which to grow and mature. In re J.W.D., 456 N.W.2d 214, 217 (Iowa 1990).

The best interest of Beth and Taylor require Monica's parental rights be terminated. The decision of the juvenile court is affirmed.

AFFIRMED.