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IN THE COURT OF APPEALS OF IOWA

No. 7-499 / 96-1896

FILED
OCT 29 1997
CLERK SUPREME COURT

IN THE INTEREST OF S.B. AND S.B., Minor Children,

M.B., Mother,
Appellant.

Appeal from the Iowa District Court for Jasper County, Thomas W. Mott, District Associate Judge.

The mother appeals the termination of her parental rights. **AFFIRMED.**

Ryan A. Genest, Pleasant Hill, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and John Heinicke, Assistant County Attorney, for appellee-State.

DuWayne J. Dalen of Brierly Law Office, Newton, guardian ad litem for minor children.

Considered by Cady, C.J., and Huitink and Vogel, JJ.

VOGEL, J.

The mother, Michelle B., appeals the termination of her parental rights. She contends the juvenile court erred in terminating her rights since it would not promote stability in her children's lives.

Background facts. S.B. (Shane), born March 3, 1991, and S.B. (Seth), born January 12, 1992, were placed in the care of the DHS in May 1995 after their mother, M.B. (Michelle), had left them with a babysitter for a few hours and hadn't returned after a few days. They were adjudicated to be children in need of assistance on August 22, 1995 pursuant to Iowa Code section 232.2(6)(c)(2) (1995). The State filed a termination petition in September 1996. Michelle was placed in a correctional facility on September 17 on drug charges and was residing there at the time of the termination hearing. On September 27, 1996, the juvenile court entered an order terminating her parental rights. Michelle appeals.

Scope of review. We review a juvenile court's finding of a child in need of assistance (CINA) de novo. *In re L.K.S.*, 451 N.W.2d 819, 821 (Iowa 1990). While we are not bound by the juvenile court's fact findings, we give them weight, especially when considering the credibility of the witnesses. *Id.*; Iowa R. App. P. 14(f)(7). Our primary concern lies in the welfare and best interest of the child. *In re N.M.W.*, 461 N.W.2d 478, 480 (Iowa App. 1990).

Termination. The mother, Michelle, argues the juvenile court erred in terminating her parental rights because the Department was not sure they could find

an adoptive family and because Michelle had consistently stated she wished to be reunified with her children.

Michelle's first argument is without merit. The likelihood of her children being adopted is not relevant to our determination whether Michelle's conduct warrants a termination of her parental rights. *In re T.C.*, 492 N.W.2d 425, 429 (Iowa 1992). Moreover, "the difficulty in finding an adoptive home for children with serious emotional problems [is not] a sufficient reason for [our] refusal to terminate the parent-child relationship." *See In re S.O.*, 483 N.W.2d 602, 604 (Iowa 1992). We additionally note the present foster home is "definitely considering adoption."

Furthermore, we are unable to reconcile Michelle's argument her parental rights should not be terminated because she desires to regain custody of Shane and Seth with her conduct suggesting otherwise. Michelle admitted in her testimony that over the past sixteen months she was a constant abuser of drugs. At the time of the hearing, Michelle was in the Des Moines Women's Correctional facility on drug charges. She has a long history of drug usage, beginning at age nine (9). She failed to complete any drug treatment programs; she either failed to comply with attendance policies, or because of her continual drug use, missed evaluation appointments.

From the time of the boys' removal from Michelle's custody on May 28, 1995, until the termination hearing on September 26, 1996, she held only one job for a period of three (3) weeks. This 23-year-old mother has an eighth grade education and does not have a car, nor a driver's license. Up until the time of her imprisonment,

Michelle relied on food stamps and friends and relatives to support her. Michelle has also failed to maintain a stable home since May 1995. She has had at least six (6) different addresses for short durations, and at times, her whereabouts were unknown. Michelle participated in one parent skill counseling session at her home and treatment was discontinued because of her noncompliance. She attributed this noncompliance to her continual abuse of drugs.

Finally, Michelle has seen her sons only once since August 1995. She did not inquire as to the boys' whereabouts for two months following their removal. She was afforded supervised visitation and would fail to show up, cancel, or call. She did show up late to one visit on August 10, 1995. Her boys did not seem to know her and they did not speak to her during the visit; they also appeared to be afraid of her.

Thus, Michelle's wishes clearly belie her conduct. Shane and Seth need not endlessly wait the maturity of their mother. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In re D.A.*, 506 N.W.2d 478, 479 (Iowa App. 1993). We must reasonably limit the time for parents to be in a position to assume care for their children because patience with parents can soon translate into intolerable hardship for the child. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1994). A child should not be forced to suffer the parentless limbo of foster care. *In re J.P.*, 499 N.W.2d 334, 339 (Iowa App. 1993).

At some point, the rights and needs of the child rise above the rights and needs of the parents. The legislature, through section 232.116, directs us to that point. *In re J.L.W.*, ____ N.W.2d ____ (Iowa App. 1997). Shane and Seth have been out of the home since August 1995. We find Michelle was given ample time to reunite with her children but failed.

Having considered carefully all issues before us, we accordingly affirm the order of the juvenile court terminating Michelle's parental rights.

AFFIRMED.