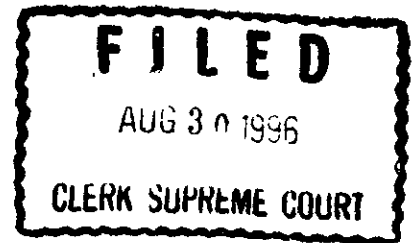


IN THE COURT OF APPEALS OF IOWA

No. 6-501 / 96-613



IN THE INTEREST OF J.G., A.N., AND B.N.,
Minor Children,

M.N., Mother,

Appellant.

Appeal from the Iowa District Court for Scott County, Michael A. Woods,
Associate Juvenile Judge.

The mother appeals from a district court ruling terminating her parental
rights to three minor children. **AFFIRMED.**

Carrie E. Long of John T. Bribresco Law Offices, Bettendorf, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, William E. Davis, County Attorney, and Gerda C. Lane, Assistant
County Attorney, for appellee State.

Janice Hanrahan Roemer, Davenport, guardian ad litem for minor children.

Considered by Habhab, P.J., and Huitink and Streit, JJ.

STREIT, J.

A mother, struggling with drug abuse, incarceration, homelessness, and mental health problems appeals an order of the juvenile court terminating her parental rights in two of her four children. Margaret (Peggy) N. is the mother of four children, Jessica G., born August 10, 1979, Andrea, born May 21, 1984, Brendon, born August 23, 1991, and Sheehan, born July 30, 1994. Peggy's parental rights were terminated in Brendon and Andrea in 1996.

Margaret developed a substance abuse problem when she was only fourteen years old. Jessica was born when Peggy was a high school senior. Jessica's father was placed in prison for drug-related charges.

In 1982, Peggy married Dave N., an alcoholic. They lived in Texas for two years. Peggy and Dave continued their substance abuse while in Texas. Dave physically abused Peggy. Dave was arrested for possession of burglary tools. Peggy lived with drug addicts and alcoholics. When Peggy became suspicious that one of her boyfriends was physically and sexually abusing her daughter Andrea, she returned to Iowa.

After living with her parents for several months, Peggy moved back in with Dave who had returned to Iowa as a fugitive. She and Dave used cocaine and alcohol. Peggy's substance addiction prevented her from keeping a job.

In 1988, Peggy contacted the Department of Human Services (DHS) requesting sexual abuse treatment for Andrea. Therapy commenced but Peggy failed to keep appointments.

In 1989, a founded child abuse report was filed against Dave for physically abusing Jessica.

After Brendon's 1991 birth, Peggy's life was unstable. Peggy lived with her brother, friends, and the Salvation Army. The homes she lived in were filthy, smelled of cat urine, were infested with roaches and fleas, and had fecal matter ground into the floor. The children slept in the attic. Family preservation services were implemented in August 1992. In 1993 Brendon was twice taken to the emergency room for injuries. The incidents resulted in a founded report of abuse, one for improper shelter and one for improper supervision.

In September 1992, Peggy began services with Vera French, a community health center, for domestic abuse issues. Peggy failed to cooperate. Peggy refused mental health treatment at Vera French.

In 1993 chaos continued. Jessica was adjudicated a delinquent for breaking and entering. In April 1993, Peggy was charged for Jessica's truancy, and Peggy was forced to leave the Salvation Army where she had been staying. On August 23, 1993, Child In Need of Assistance (CHINA) proceedings were filed after Brendon

received a severe burn on his hand for which Peggy had no explanation. The children were adjudicated in need of assistance and placed in foster care.

Peggy failed to improve her family's living conditions. She wandered from shelter to shelter despite numerous offers of help from organizations and others. She repeatedly entered programs and inpatient care, but never completed any of them. Peggy did not believe she had a substance abuse problem.

Although in the beginning of 1994 and midyear, the court found Peggy was working to stabilize her living situation and she had been reasonably cooperative with services, later reports indicated Peggy had failed to obtain safe housing and was indifferent to services. Similarly, Family Resources reported in March 1995 that Peggy was making some progress on the case permanency plan. By June 1995, however, Family Resources recommended Peggy's parental rights be terminated. Due to unsanitary and hazardous conditions, Sheehan was removed from the home and a CHINA petition filed. At the time of the removal, Peggy demonstrated extremely violent and inappropriate behavior and was charged with child endangerment, serious interference with official acts and assaulting an officer. She was taken out of her apartment and transported to jail. Sheehan was adjudicated a child in need of assistance and placed in foster care.

In October, 1995, Peggy was arrested for criminal interference with a police action and assault and spent the next thirty days in jail. The State filed petitions for

termination of Peggy's parental rights. Peggy began attending mental health sessions at Vera French, and by December 1995, she had obtained an apartment. At a dispositional hearing in December 1995, the court found that Peggy was struggling to meet her own basic needs in addition to the children's.

Termination hearings commenced on January 11, 1996. Peggy's pretrial release counselor testified that since she was arrested, Peggy had been doing a good job of keeping her weekly appointments. Her mental health therapist, however, stated her mental condition has deteriorated over time. Peggy had begun to hallucinate.

The district court concluded that since 1988, Peggy has been offered numerous services to enable her to reunite her family, but that Peggy failed to capitalize on any of them. The court terminated Peggy's parental rights to Brendon and Andrea pursuant to Iowa Code sections 232.116(1)(b), (c), (e), (g), (j), and (k) (1995).¹ The court also terminated the father's parental rights. The court appointed Jessica's uncle as her guardian and custodian. Peggy appeals the termination of her parental rights of Andrea and Brendon.

¹ Grounds for termination included: abandonment; physical neglect; no change in circumstances despite offer or receipt of services; children removed from home twelve of the last eighteen months and cannot be returned to the custody of the parents; children were adjudicated in need of assistance; parent has a chronic mental illness and severe, chronic substance abuse problem therefore children will not be returned to custody of parent within a reasonable period of time considering child's age and need for permanent home.

Appellate review of termination proceedings is de novo. *In Interest of R.C.*, 523 N.W.2d 757, 759 (Iowa App. 1994). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. *Id.*

Peggy maintains the DHS did not offer reasonable services to help reunify her with the children. We disagree.

Reasonable efforts to reunite parent and child are required prior to the termination of parental rights. *In Interest of T.C.*, 522 N.W.2d 106, 108 (Iowa App. 1994). *See generally* Iowa Code § 232.102. Generally, DHS must make reasonable efforts to provide services to eliminate the need for removal. *See* Iowa Code § 232.102(9)(a) (1995). These children were adjudicated children in need of assistance in August 1993. After the children were removed, services were provided to Peggy over the next two years, but she failed to complete any of the programs recommended by DHS. The various case permanency plans reflect the services provided and the goals pursued. The case permanency plan adopted in the permanency order of December 1995 stated its goal to be termination of parental rights.

In almost two and one-half years of placement there still was no significant improvements toward reunification. We view cases where the children have been

out of the home for more than twelve months with a sense of urgency *In Interest of L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

While Peggy has begun to keep her weekly appointments and has indicated some progress in the past, “[c]hildren simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible and reliable.” *Id.* Time after time, Peggy has repeatedly and consistently voiced a willingness to cooperate with treatment and mental health programs and other efforts to address problems in her life. Although she has small success from time to time, she has utterly failed to make a commitment. These children have waited long enough.

The State provided services and sought first to maintain the family unit, then to reunite the family, but Peggy has failed to capitalize on any of them. She claims DHS workers were aware of her mental health problems but did nothing positive to help her obtain treatment so she could satisfy the objectives of the programs she entered. Termination proceedings should not be voided because efforts of the department of human services are now contended to be inadequate. *In Interest of B.K.K.*, 500 N.W.2d 54, 57 (Iowa 1993). “[P]arents have a responsibility to demand services prior to the termination hearing.” *In Interest of L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). “Challenges to the plan for reunification should have come when the plan was entered.” *Id.* There is not any evidence which supports that

Peggy attempted to raise this issue. While we recognize a parent suffering from mental illness suffers a disability and may need special accommodations, in our view the departments efforts were more than adequate. The State did not prematurely cease its efforts to reunite the family. The evidence in the record is clear and convincing the children cannot safely be returned to their mother's care. The trial court correctly terminated the parental rights of Andrea and Brendon.

AFFIRMED.