IN THE COURT OF APPEALS OF IOWA

No. 1999-245 (9-469) / 98-2235
Filed October 15, 1999

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CLERK SUPREME COURT

IN THE INTEREST OF M.H., Minor Child,

J.H., Father,
Appellant,

M.H., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Constance Cohen, Associate Juvenile Court Judge.

Father and mother appeal separately from a juvenile court order terminating their parental rights. **AFFIRMED.**

Cynthia Tofflemire, Des Moines, for appellant-father.

Ryan B. Moorman, West Des Moines, for appellant-mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Christine Gonzales, Assistant County Attorney, for appellee-State.

Jane E. Rosien of Harding, Harding, Griffin, Rosien & Hobbs, Des Moines, guardian ad litem for minor child.

Considered by Huitink, P.J., Mahan, J., and Honsell, S.J.*

*Senior Judge assigned by order pursuant to Iowa Code § 602.9206 (1999).

HONSELL, S.J.

During early July of 1997, police officers found M.H., who was then three years old, outside, unsupervised and inadequately clothed. The child's mother was inside her apartment sleeping. The Department of Human Services (DHS) became involved and issued a founded report of denial of critical care.

A similar incident occurred later the same month. Police officers found M.H. naked three blocks from his home. When police officers took him home, they found the child's father asleep on the couch. A pot pipe and marijuana were found next to the couch. The child's mother was asleep in a bedroom. Drug paraphernalia was also found in this room. M.H. was removed from the home and placed with his maternal aunt. DHS issued a second founded report of denial of critical care. M.H. was later adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) (child receiving inadequate supervision) and (n) (parent's drug or alcohol use prevents care of the child).

On August 29, 1997, M.H.'s mother entered a residential substance abuse treatment facility. She was successfully discharged from this facility to an out-patient treatment program. Despite providing clean drug screens during September of 1997, she did not consistently provide drug tests thereafter as requested by DHS. She did attend a parenting class.

The father of M.H., J.H., provided one drug test in August 1997. This test was positive for amphetamine, methamphetamine, cocaine and THC. He did not have any contact with M.H. or DHS for an extended period of time.

In early December 1997, M.H.'s mother had a drug test which was positive for amphetamine. Later that month she was in a car accident. She was intoxicated at the time. She continued to be inconsistent in providing drug tests. She began to participate in individual counseling and in January 1998, she successfully completed a continuing care treatment program. However, by February she was no longer cooperating with services. She was not providing drug tests and quit attending individual counseling. She lost her job. She began to spend time with J.H., who was subject to arrest due to outstanding warrants.

In April 1998, the State filed a petition to terminate the parental rights of M.H. and J.H. At about that time, M.H. began to provide drug tests again, although not on a consistent basis.

J.H. was arrested in May 1998 for probation violations. He was sent to a correctional facility. While there, he attending a parenting class and began to provide drug tests. J.H. expected to be released in October 1998.

The juvenile court issued its decision in December 1998. The court found it was unclear when, if ever, the parents would have the sobriety and stability necessary to care for M.H. and meet his needs. The court terminated J.H.'s parental rights

pursuant to sections 232.116(1)(b), (d), and (k). M.H.'s parental rights were terminated under sections 232.116(1)(c) and (k). Both parents appealed.

I. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. J.H. contends the State did not present sufficient evidence to support termination of his parental rights under sections 232.116(1)(b) and (d). He does not raise an argument concerning section 232.116(1)(k). The father's failure to argue this issue may be deemed waiver of the issue. Iowa R. App. P. 14(a)(3); *In re W.C.*, 489 N.W.2d 40, 41 (Iowa App. 1992). When the juvenile court terminates parental rights on more than one statutory grounds, we need only find grounds to terminate under one of the sections cited by the juvenile court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). J.H.'s parental rights were properly terminated under section 232.116(1)(k), due to the fact he has not appealed the termination under this code section. Thus, we need not address his claims regarding sections 232.116(1)(b) and (d).

In any event, we believe there is sufficient evidence to show J.H. failed to maintain significant and meaningful contact with the child. He did not make any effort to regain the care of the child until after he was placed in a correctional facility.

He had minimal contact with M.H. after he was removed from the parents' care. He did not provide two clean drug tests, and so never began supervised visitation with the child. He had one unapproved visit with the child and he sent one letter. We believe there is sufficient evidence to support termination of J.H.'s parental rights.

III. The mother, M.H., contends the State did not present sufficient evidence to warrant termination of her parental rights. She claims she was committed to sobriety and was a completely different person than she was at the time that the child was removed from her care. She states she is now ready to care for her child.

We believe she has made some progress in this case. Some progress, however, by a parent is not sufficient. *In re D.A.,* 506 N.W.2d 478, 479 (Iowa App. 1993). A parent must show an adequate overall ability to care in all custodial areas. *Id.* She did not provide consistent drug tests. For two months, between February and April 1998, she did not provide any drug tests. After the termination petition was filed she began to provide some drug tests, but did not do so twice a week as required by DHS. She had a drug test in September 1998 which was positive for cocaine or a cocaine derivative. We believe there was sufficient evidence to show the circumstances which led to the child's adjudication as a child in need of assistance continued to exist despite the offer or receipt of services.

IV. Both parents contend termination of their parental rights is not in the child's best interests. They claim they have a close bond with their son and should be able to maintain a relationship with him.

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, a 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 whether to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1996). A child should not be forced to endlessly suffer the parentless limbo of foster care. *In re J.P.*, 499 N.W.2d 334, 339 (Iowa App. 1993). 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). Children simply cannot wait for responsible parenting. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

We believe termination of the parents' rights is in the child's best interests. The parents cannot adequately care for the child at this time. The child should not be forced to wait any longer for a permanent home.

We affirm the decision of the juvenile court terminating the parental rights of J.H. and M.H.

AFFIRMED.