IN THE COURT OF APPEALS OF IOWA

No. 2-730 / 12-1231
Filed September 6, 2012

IN THE INTEREST OF K.R.L. AND K.T.R,
Minor Children,

B.S.L., Mother,
Appellant.

Appeal from the Iowa District Court for Pottawattamie County, Charles D. Fagan, District Associate Judge.

A mother appeals the order terminating her parental rights to two of her children. **AFFIRMED.**

Roberta J. Megel of the Public Defender's Office, Council Bluffs, for appellant mother.

Thomas J. Miller, Attorney General, Katherine S. Miller-Todd, Assistant Attorney General, Matthew Wilber, County Attorney, and Dawn Landon, Assistant County Attorney, for appellee State.

Brian Rhoten, Council Bluffs, for appellee father.

Scott Strait, Council Bluffs, attorney and guardian ad litem for minor children.

Considered by Vaitheswaran, P.J., and Potterfield and Bower, JJ.

VAITHESWARAN, P.J.

The district court relied on four statutory grounds to terminate a mother's parental rights to two of her five children. On appeal, the mother contends the State failed to prove these grounds. Reviewing the record de novo, we are convinced the State proved one of the grounds. *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa 1999) (setting forth standard of review and indicating that if the juvenile court terminates on multiple grounds, we need only rely on one of those grounds in order to affirm).

Iowa Code section 232.116(1)(d) (2011) requires proof that (1) the children were previously adjudicated in need of assistance after a finding they were physically or sexually abused or neglected and (2) "[s]ubsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services." The mother concedes that the first prong was satisfied. She focuses on the second prong and, in particular, the State's obligation to offer reunification services. *See In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000) (stating this provision (formerly Iowa Code section 232.116(1)(c)(2)) implicates the reasonable efforts requirement). She asserts "no clear and convincing evidence was presented by the State to show reasonable efforts were provided to [her] to reunite her with her children."

In fact, the Department of Human Services afforded the family a litany of services for close to a decade. The department first investigated the family in 2003 based on a finding that one of the children was born with marijuana in her

system. The department continued its involvement intermittently, based primarily on the unsanitary and unsafe conditions in the mother's home. The services the department provided included services to address this issue.

Over the years, several of the children transitioned in and out of the mother's care. The final transition into her care occurred in 2010. At that time, the oldest four children, who had earlier been removed from the home,[1] were returned to the mother based on improvements she made to her living environment.

Within months, matters again took a turn for the worse. Responding to a complaint about the mother's residence, a department investigator made an unannounced visit to her home and immediately smelled "a strong odor of mildew" and rotten food. The investigator found debris on the floor, a filthy kitchen and bathroom, and toys, clothes, and bicycles piled to the ceiling. The mother was given several days to clean up the apartment. When the investigator returned, the residence appeared worse than on the day of the unannounced visit.

In July 2011, the department sought and obtained an ex parte removal order of the four children. The oldest two children were placed with their maternal grandmother and remained there under a guardianship. As the grandmother did not have room for the younger two children, who were born in 2004 and 2007, they were placed in foster care, where they remained throughout the proceedings. These are the only two children involved in this appeal.

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[1] The fifth child was not born until April 2012. She was immediately removed and placed in foster care. She is not a subject of this appeal.

The department reinitiated reunification services following the 2011 removal. A service provider met with the mother four times a week and worked with her on housing issues. She also supervised twice-weekly visits with the children. While the service provider conceded the mother regularly attended visits and did a good job of providing the children with meals and snacks, she stated, "It wasn't actually until just recently that [the mother] would allow me to help."

The mother's attempt to reach out for assistance coincided with the birth of her fifth child in April 2012. This belated request for help came less than a month before the termination hearing for the two children involved in this appeal.

The department's case manager testified that, despite years of services in other proceedings and eight months of reunification efforts in this proceeding alone, the mother was not in a position to have the children returned to her care. She reported that the mother was able to "keep things together while under the eye of the Department" but did "not appear to have the ability to maintain a healthy living environment" in the long term. She noted that "once the department has closed cases, we have been brought back in for the same issues."

The mother did not disagree with this assessment. She conceded she had problems with hoarding and stated she would like counseling to address this issue. However, she did not undergo a psychological evaluation until a day before the termination hearing. The record was held open to receive the evaluation. The report referred to the mother's hoarding tendencies but also

cited other unsafe practices in the home unrelated to hoarding. The evaluator concluded "[m]ost likely [the mother] will continue the same cycle of behaviors."

As noted, the mother's cycle of behaviors had already spanned nine years and included a conviction on two counts of child endangerment for which she was on probation. As a condition of probation, the mother was not to have any further criminal law violations. At the time of the termination hearing, another endangerment charge was pending, based on the 2011 unannounced home visit.

The department made serious efforts to break this cycle without success. We conclude the mother was "offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services." Iowa Code § 232.116(1)(d). Accordingly, we affirm the termination of the mother's parental rights to two of her five children.

AFFIRMED.