IN THE COURT OF APPEALS OF IOWA

No. 8-005 / 07-1967
Filed February 13, 2008

IN THE INTEREST OF B.B.,
Minor Child,

L.G., Mother,
Appellant.

Appeal from the Iowa District Court for Jones County, Casey D. Jones, District Associate Judge.

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

Craig Elliott of Elliott & McKean, Anamosa, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Connie S. Ricklefs, County Attorney, and Phillip Parsons, Assistant County Attorney, for appellee State.

John Jacobsen, Cedar Rapids, for appellee father.

Kristofer Lyons of Shimanek, Shimanek & Bowman, L.L.C., Monticello, for minor child.

Considered by Sackett, C.J., and Vogel and Vaitheswaran, JJ.

VAITHESWARAN, J.

Loretta appeals the termination of her parental rights to B.B., born in 2005. She contends: (1) the record lacks clear and convincing evidence to support termination under the grounds cited by the district court, (2) the Department of Human Services did not furnish reasonable reunification services, and (3) termination was not in the child's best interests.

I. The district court terminated Loretta's parental rights pursuant to Iowa Code sections 232.116(1)(g) and (h). We may affirm if we find clear and convincing evidence to support either one of these grounds. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review, we believe termination was warranted under section 232.116(1)(h) (requiring proof of several elements including proof that child cannot be returned to parent's custody).

B.B. was initially removed from Loretta's care after it was discovered that Loretta left him alone. Loretta explained that B.B. was sleeping at the time and she simply went to the laundry room, ran into a neighbor with whom she briefly visited, and returned to the apartment to find him still sleeping. However, after the child was removed, the Department discovered other concerns, including B.B.'s failure to thrive. The State initiated child in need of assistance proceedings and B.B. remained in foster care throughout the proceedings.

It later became evident that B.B's failure to thrive was not a result of neglect but "an undiagnosed eating condition." At the time of the termination hearing, B.B. was waiting for the results of an evaluation for a genetic disorder.

Loretta made progress in addressing B.B's eating disorder, but all the Department employees and service-providers who testified stated that more progress needed to be made. One service provider testified as follows:

> [W]e are only doing two meals, one day a week, and if Loretta had [B.B.] on a full-time basis she would definitely need help in providing twenty-one meals a week and healthy snacks. And, you know, feeding a child on a daily basis, there's lots of teaching that would be in order.

Even B.B.'s guardian ad litem, who was initially in favor of affording Loretta more time to acquire the necessary skills, stated "I'm forced to agree with the recommendation of the Department and the State." Based on this evidence, we agree with the district court that B.B. could not be returned to Loretta's care.

In reaching this conclusion, we do not minimize the significant effort Loretta expended to meet the Department's changing expectations of her. When told that she needed to renovate a trailer she had purchased to make it habitable for a child, she did so. When told she would have to exercise supervised visitation at a community center rather than in her home, she made arrangements to get there, despite her limited resources and inability to drive. When advised that B.B. was being evaluated at the University of Iowa Hospitals, she went to the hospitals to be with him. She even made efforts to attend semi-supervised visits scheduled in a neighboring county. Given her efforts, we are sympathetic to her poignant plea to "have a chance at raising my child just like everyone else has a chance at raising their children." However, we cannot ignore the numerous professional opinions suggesting that [B.B.'s] health would be jeopardized by returning him to her care.

II. The Department is obligated to furnish reasonable reunification services. *In re C.B.*, 611 N.W.2d 489, 492-93 (Iowa 2000). This is part of the State's ultimate burden of proof. *Id.* We conclude the Department minimally satisfied this obligation, despite its failure to tailor some services to Loretta's needs.

III. Termination must also be in the child's best interests. *In re C.B.*, 611 N.W.2d at 492. There is no question that Loretta shared a close bond with B.B. For example, one service provider testified "there is definitely a bond. There is definitely closeness, affection, and it's obvious that they care for each other, they love each other." However, this bond had to be weighed against the risks to B.B.'s health of improper or inadequate feeding. As the district court stated,

> [W]ith [B.B.] being only eighteen pounds as he nears the age of three, there is virtually no margin of error for [B.B.] to see if [Loretta] could truly deal with his eating problems. Any calories lost due to [Loretta's] inability to adequately address [B.B.'s] needs at meal times could prove highly damaging or even fatal to [B.B.]. The Court is not convinced that [Loretta] could adequately ensure that [B.B.] ate enough if there were no service provider present to prompt her when [B.B.] refuses to eat what is offered or simply does not ingest enough calories. It is also clear that [Loretta] has no viable support system to help her with the day-to-day responsibilities of keeping [B.B.] well-nourished. Even in the very attentive foster home, [B.B.] still struggles with his weight. The Court cannot gamble with [B.B.'s] life that his mother has the ability to properly care for him. Therefore, the Court finds that it would be in the best interests of [B.B.] that his mother's parental rights be terminated.

We concur in this assessment.

We affirm the termination of Loretta's parental rights to B.B.

AFFIRMED.