IN THE COURT OF APPEALS OF IOWA

No. 8-348 / 08-0444
Filed May 14, 2008

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

Q.M., Minor Child,
Appellant,

R.B.M., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

The attorney/guardian ad litem appeals and the father cross appeals from the district court's order denying termination of parental rights. **REVERSED AND REMANDED.**

Jerry Foxhoven of the Drake Legal Clinic, Des Moines, for appellant child.

Donna Beary, Des Moines, for appellant father.

Nancy Pietz, Des Moines, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Kevin Brownell, Assistant County Attorney, for appellee State.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

PER CURIAM

The attorney/guardian ad litem (GAL) for the child appeals and the father cross appeals from the district court's order denying termination of parental rights. The GAL contends the State met its burden to support termination of Ronald's rights and that termination is in the best interests of Quintessa. Quintessa, born in 2000, was seven years old at the time of hearing. She and her younger brother, Shaylon, were removed in July 2006 from their mother's custody due to physical abuse, and Quintessa has long-term trauma as a result.[1] She and her brother have been placed in the guardianship of Shaylon's father, Branden, and his wife. Ronald is Quintessa's biological father. As a result of various criminal activities, Ronald has been in prison the majority of 2002 through 2007. Ronald was paroled in 2005, knowingly violated his parole in 2006, and returned to prison until his discharge in April 2007. He has never had legal custody of Quintessa or cared for her on a full-time basis, as he has been incarcerated for nearly half her life.

We review the termination of parental rights de novo. *In re D.G.*, 704 N.W.2d 454, 456 (Iowa Ct. App. 2005). The State must prove the circumstances for termination by clear and convincing evidence. *In re L.E.H.*, 696 N.W.2d 617, 618 (Iowa Ct. App. 2005). Where the district court terminated the parental rights on more than one statutory ground, we will affirm if at least one ground has been proved by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). Our primary concern is the best interests of the child. *In re*

[1] The issue of the status of the mother's parental rights and issues concerning Shaylon are not raised on appeal, and we do not address them.

Z.H., 740 N.W.2d 648, 651 (Iowa Ct. App. 2007). In determining the child's best interests, we look to both long-term and immediate needs. *Id.*; *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

The GAL appeals, arguing clear and convincing evidence presented by the State supports termination of Ronald's rights. We focus our attention on Iowa Code section 232.116(1)(f) as the basis for termination. That section provides that the juvenile court may terminate a parent's rights if all of the following elements are established by clear and convincing evidence: (1) the child is four years of age or older, (2) the child has been adjudicated a child in need of assistance, (3) the child has been removed from the physical custody of the child's parent for at least twelve of the last eighteen months, and (4) the child cannot be returned to the custody of the child's parent at the present time. Iowa Code § 232.116(1)(f) (2007). Only the last element was disputed during the termination hearing. As previously noted, Ronald has been incarcerated for half of Quintessa's life and has never been a custodial parent. His most recent criminal history includes a violent and intentional act against a stranger that caused significant bodily harm. Ronald's testimony minimized his criminal behavior. Ronald had been released for about nine months, but visitation had not progressed beyond supervised due to concerns of Quintessa's comfort level with Ronald. Caseworkers testified that no significant bond exists between Ronald and Quintessa: During visitation, Quintessa would interact more with the person supervising and would not make eye contact or engage in direct conversation with Ronald unless prompted. In addition, Ronald is not supportive of Quintessa's current placement, as he feels she should be with him as a blood

relative. He testified that he would not stop fighting to gain custody of Quintessa until he was successful or she turned eighteen. Ronald's testimony reflected a lack of concern or understanding that Quintessa could not be immediately placed with him in light of the trauma inflicted by her mother and concern over bonding with a father she did not know. In addition, he also reflected a lack of concern or understanding of the safety issues raised as a result of his past criminal behavior. We conclude the district court erred in dismissing the termination petition as to Ronald's parental rights because clear and convincing evidence in the record supports Quintessa could not be returned to Ronald's care.

We also note that termination is in Quintessa's best interests. "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997) (quoting *In re D.A.*, 506 N.W.2d 478, 479 (Iowa Ct. App. 1993)). Children simply cannot wait for responsible parenting, *id.*, and 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 E.K.,* 568 N.W.2d 829, 831 (Iowa Ct. App. 1997). In looking to her long-range as well as immediate interests, we conclude termination of Ronald's parental rights is in Quintessa's best interests to afford her the permanency she deserves. *See J.L.W.*, 570 N.W.2d at 781.

Finally, we conclude the issues raised by Ronald on cross-appeal are either without merit or have not been preserved for our review, and we decline to address them. We therefore reverse the order of the district court dismissing the

termination petition as to Ronald and remand to the court for entry of an order consistent with this opinion.

REVERSED AND REMANDED.