

IN THE COURT OF APPEALS OF IOWA

No. 8-395 / 08-0437

Filed June 11, 2008

**IN THE INTEREST OF E.F.,
Minor Child,**

P.F., Mother,
Appellant,

W.E.F., Father,
Appellant.

Appeal from the Iowa District Court for Des Moines County, Michael Dieterich, District Associate Judge.

A mother appeals the termination of her parental rights to her child.

AFFIRMED.

Matthew D. Bessine of Smith, Kultala & Boddicker, L.L.P., Burlington, for appellant mother.

Eric Benne of Schulte, Hahn, Swanson, Engler & Gordon, Burlington, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Patrick C. Jackson, County Attorney, and Jennifer Slocum, Assistant County Attorney, for appellee State.

Alan Waples of Wittkamp & Waples, Burlington, for the minor child.

Considered by Miller, P.J., and Vaitheswaran and Eisenhauer, JJ.

VAITHESWARAN, J.

Pearl appeals the termination of her parental rights to Elizabeth, born in 2007. She argues (1) the district court should have granted her a six-month extension “to assuage the concerns regarding her ability to adequately supervise Elizabeth” and (2) termination of her parental rights was not in Elizabeth’s best interests.¹

I. Pearl does not take issue with the court’s conclusion that Elizabeth could not be returned to her custody. Iowa Code § 232.116(1)(h) (2007).² Instead, as noted, she asserts the court should have deferred termination. On our de novo review of the record, we are not convinced a deferral was warranted.

Elizabeth was born prematurely and spent approximately six weeks in the hospital. During that time, she was diagnosed with eating difficulties, heart problems, and possible neurologic deficits. When it was time for her discharge, Elizabeth was transferred directly to the custody of the Department of Human Services for placement in foster care. This transfer was based on concerns that Elizabeth’s parents lacked the ability to care for her properly. In particular, the removal order contained the following findings:

Both parents have exhibited intellectual delays. The child’s mother is diagnosed with type 2 diabetes, morbid obesity, Barter’s syndrome with hypokalemia, and low intellectual functioning. She needs assistance to perform daily living skills tasks as well as administering her own medication for her diabetes. The child’s mother is unable to provide for the needs for herself on a daily basis. The child’s mother has exhibited frustration and difficulty in simple infant caring tasks, such as changing a diaper and holding the child.

¹ The father’s appeal was dismissed for failure to timely file a petition.

² The district court cited subsection (g) but made reference to the key element of subsection (h), which is the ground pled by the State.

Following the transfer, Pearl exercised supervised visitation with her daughter. At a permanency hearing, a Department social worker who supervised these visits testified that Pearl became “easily frustrated.” She stated there was “a lot of repetition” of instructions throughout the visits. While she acknowledged that Pearl showed some improvement over time, she opined, “when we’re in those visits and they’re having to be redirected over and over and over again for basic care, there is no way that I can tell the judge or tell you or tell the parents that I believe they are safe for her.” The social worker concluded, “I don’t believe that [the father] and Pearl have the ability to be able to care for [Elizabeth] full-time all the time on their own.” She predicted that the situation would not change in six months.

A service provider who also supervised visits agreed with these opinions. She testified that the parents “struggle with identifying [Elizabeth’s] needs, you know, just basic needs of whether she’s hungry, if she needs to be fed, and she’s fussy, what they need to do to calm her.”

After the permanency hearing, the district court made the following findings:

Although it is obvious to the Court that the parents love their child very much, unfortunately due to their limitations and the special needs of the child, the parents cannot care for the child’s daily needs nor can they parent a child at this time or anytime in the near future.

These findings are fully supported by the record.

In the ensuing one to two months, Pearl’s parenting skills essentially remained the same. At the termination hearing, the Department social worker

and the service provider reaffirmed their earlier opinions. The Department social worker stated, "Elizabeth continues to progress and her parents do not."

Pearl's testimony at the termination hearing lent credence to these professional opinions. Although she said she had learned how to change a diaper, feed Elizabeth, and hold and play with her, she acknowledged that she still did not know what to do when Elizabeth cried.

An occupational therapy evaluation on Pearl also corroborated the testimony of the Department employee and service provider. The evaluator recommended that Pearl "not be left alone to care for a child, dependent adult or pet." The evaluator continued,

The patient may be trained to do some routine childcare tasks such as changing a diaper, but someone else will need to be present to make sure that safety precautions are followed, to problem solve what to do when "out of the ordinary" events occur and to intervene if patient becomes stressed/overwhelmed.

In the face of this evidence, we agree with the following findings, contained in the district court's termination order:

The child's parents have improved in some of their parenting skills to the point where the child's mother is able to appropriately hold the baby. Furthermore, the parents follow the instructions on basic care for the child upon prompting by the service providers. Unfortunately, the child's parents are yet unable to care for the child on a daily basis. The parents cannot perform basic daily functions for the child, such as dressing and undressing the child, feedings, bathing, and basic decisions for the best interest of the child unless prompted by the service providers. In order to safely return the child to the parents' home, 24 hour supervision of the parents would be required to ensure the safety of the child and make certain the child's basic needs are being met. Said supervision is not available. The adjudicatory harms are still present in the home.

We conclude a six-month extension was not warranted.

II. The ultimate consideration in a termination proceeding is the child's best interests. See *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Based on the record summarized above, we agree with the district court that the risk of harm to the child if returned to Pearl's care was too great. Accordingly, we conclude termination was in the child's best interests.

AFFIRMED.