IN THE COURT OF APPEALS OF IOWA

No. 1-911 / 11-1563
Filed November 23, 2011

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

K.M.-P., Mother,
Appellant.

Appeal from the Iowa District Court for Jefferson County, William S. Owens, Associate Juvenile Judge.

A mother appeals the district court's ruling terminating her parental rights to her child. **AFFIRMED.**

R.E. Breckenridge of Breckenridge Law, P.C., Ottumwa, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Tim W. Dille, County Attorney, and Patrick J. McAvan, Assistant County Attorney, for appellee State.

Mary Baird Krafka of Krafka Law Office, Ottumwa, attorney and guardian ad litem for minor child.

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

VAITHESWARAN, P.J.

A child, born in 2002, was removed from her mother's care after the Iowa Department of Human Services received a complaint that the mother struck the child in her face.[1] Following an investigation, the department determined that the complaint was founded. The mother was criminally charged in connection with the incident, and the district court found her guilty of assault causing bodily injury.

Meanwhile, the child was placed with an aunt and remained in her care through a termination of parental rights hearing that took place twenty-one months after the removal. Following the hearing, the juvenile court concluded the child could not be returned to the mother's custody. *See* Iowa Code § 232.116(1)(f) (2011) (providing that an individual's parental rights may be terminated if several factors are present, including that the child cannot be returned to the parent's custody).

On appeal, the mother contends: (1) the department failed to make reasonable efforts towards reunification and (2) termination was not in the child's best interests. Our review is de novo. *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

I. The department has an obligation to make reasonable efforts to reunify a parent with a child. *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). "The concept of reasonable efforts broadly includes 'a visitation agreement designed to facilitate reunification while protecting the child from the harm responsible for the removal.'" *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002) (quoting *In re M.B.*,

[1] The mother's three older children were also removed at this time, but they are not subjects of this appeal.

553 N.W.2d 343, 345 (Iowa Ct. App. 1996)). While reasonable efforts may include other services, "the State need not search for unavailable services." *Id.* "This is especially so when a parent, as in the present case, presents the awesome challenge of getting treatment for a deficit the parent claims [he or she] does not have." *Id.*

The juvenile court found "no evidence to indicate that department has been dilatory in their efforts . . . to provide [the mother] with reasonable efforts." The mother takes issue with this determination, asserting "[t]here could be no reunification until [she] admitted fault, but the only chance that would occur was through family therapy which the department failed to provide." The record does not support this contention.

The department provided the mother with services to assist her, going so far as to recommend a six-month extension of time to facilitate reunification. The agency arranged for supervised or semi-supervised visits between mother and child for two hours every Wednesday and six hours every Saturday. When the mother was ordered to undergo individual counseling, the agency saw that she received approximately twenty therapy sessions with a licensed social worker.[2] Those sessions ended at the mother's behest, with the therapist characterizing the mother's perspective as follows:

> [O]kay, I have been told I have to come here, I haven't done anything wrong, and I will sit here and I will talk to you, but it is not going to change what I say to you.

[2] It is unclear from the record what the department's precise role was in facilitating these therapy sessions, but it is clear that these sessions were a prerequisite to reunification.

The therapist stated, "It is difficult to do counseling with somebody who is denying a problem." While she recognized that the mother had a right to deny the allegation of abuse, she noted that the consistent stories of physical violence disclosed by all of the mother's four children and the mother's adamant refusal to acknowledge even slight improprieties in her own conduct suggested that the mother might be operating under "a delusional belief system." She opined that the mother possibly had "an underlying mental illness" such as "bipolar diagnosis" and might need "to be on medication." She recommended a thorough psychiatric evaluation and expressed concern about having the mother reunified with the child absent treatment. While the mother voluntarily underwent a psychiatric evaluation at the outset of these proceedings, that "initial" evaluation was based entirely on the mother's reporting and included no independent testing. The mother declined to undergo any further psychiatric evaluations.

As for the mother's request for family therapy, the child's counselor opined that joint sessions with the mother would not be therapeutic for the child. She noted that, in her early interactions with the mother, the mother "demonstrated intense frustration." She stated, "I was very concerned about her style of functioning in our interactions and in our telephone contacts."

Based on this record, we are not persuaded by the mother's assertion that the department required her to make the Hobson's choice of admitting to a crime or forgoing her right to parent her child. As the department social worker testified, the agency

> tried to encourage [the mother] and engage her, offered and tried to provide numerous times to, even if she's not going to admit to that,

> to acknowledge that there was some better choices in how to handle and parent her other children and [this child].

The mother refused this encouragement and, as a result, the department employee opined that the risk to the child was too high to consider a return to the mother's custody. We concur with this assessment.

We conclude the department made reasonable efforts to reunify the mother with her child.

II. Termination must be in the best interests of the child. *See In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). We agree with the juvenile court that this standard was satisfied. The child, who was the youngest of the mother's four children, testified she was hit by her mother. One of the other three children witnessed and confirmed the incident and also stated the mother hit her. The remaining two children similarly testified that they were physically abused by their mother. All three, who were living with relatives, declined to have any further contact with their mother. While the youngest stated she wished to return to her mother's care, her initial statements to the department about the nature of the abuse she sustained, together with her testimony at the termination hearing raise significant concerns about her safety if she were reunified with her mother.

We affirm the termination of the mother's parental rights to her fourth child.

AFFIRMED.