

IN THE COURT OF APPEALS OF IOWA

No. 9-011 / 08-1651
Filed February 19, 2009

**IN THE INTEREST OF C.R.,
Minor Child,**

**S.R.K., Mother,
Appellant.**

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Mark Milder, Waverly, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven Halbach, Assistant County Attorney, for appellee State.

Heather Feldkamp of Feldkamp Law Office, P.C., Waterloo, for minor child.

Considered by Mahan, P.J., and Miller and Doyle, JJ.

MAHAN, P.J.

Shawna appeals the district court's order terminating her parental rights to her one-year-old daughter, C.R. We affirm.

I. Background Facts and Proceedings.

C.R. is the child of Shawna.¹ C.R. was removed from Shawna's care nine days after her birth. Concerns about Shawna's ability to parent were first noted in the hospital after C.R.'s birth when she failed to care for the child, was irritable and angry, and was rude and threatening to the hospital staff. At that time, the Iowa Department of Human Services (DHS) was contacted to initiate an investigation. Shawna moved in with her mother after C.R.'s birth. DHS repeatedly visited Shawna and C.R. at the home. On these visits, Shawna continued to display erratic behavior. She did not care for C.R., refused to answer questions, and yelled and swore at the DHS worker. Shawna also complained she never got to go out.²

When C.R. was nine days old, the DHS worker discussed the possibility of giving guardianship of C.R. to Shawna's biological mother. Shawna became very angry and threatening and yelled and shook her arms, all while holding C.R. Later that day, DHS responded to a report from Shawna's mother that Shawna was screaming, yelling, and "freaking out." When the DHS worker arrived, Shawna was in the fetal position with C.R. in her arms and would not let C.R. go. At that time, the Waterloo Police Department was involved and removed C.R.

¹ The identity of C.R.'s biological father is unknown. The district court also terminated the parental rights as to any putative father of C.R.

² Shawna admitted, however, that she had gone out twice within eight days of C.R.'s birth, once to a concert two days after C.R.'s birth.

from Shawna's care. C.R. was adjudicated a child in need of assistance (CINA) on March 7, 2008, continuing custody with DHS with placement in family foster care. On April 7, 2008, Shawna was incarcerated on a five-year prison sentence.³

On July 22, 2008, the State filed a termination petition. A contested hearing was held in September 2008. The district court found clear and convincing evidence supporting termination of Shawna's parental rights pursuant to Iowa Code section 232.116(1)(h) (2007). By order dated September 30, 2008, Shawna's parental rights were terminated. She now appeals.

II. Scope and Standard of Review.

We review termination of parental rights de novo. *In re Z.H.*, 740 N.W.2d 648, 650-51 (Iowa Ct. App. 2007). Grounds for termination must be proved by clear and convincing evidence. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Our primary concern is the best interests of the child. *Id.*

III. Merits.

Shawna argues the juvenile court erred in denying her request for a guardianship. Specifically, she contends the court should have placed C.R. in a guardianship until she completes her prison sentence and is able to establish she can parent the child. She requests the court grant a guardianship to

³ Shawna was charged with assault while participating in a felony and willful injury while she was pregnant with C.R. She pled guilty to two class D felonies, resulting in concurrent five-year sentences. Shawna has remained incarcerated and unable to care for C.R. throughout these proceedings.

nonrelatives, Jared and Mindy Barber.⁴ In the termination of parental rights order, the juvenile court stated in part:

Shawna . . . requests that the Court consider entering a guardianship order pursuant to Iowa Code Section 232.104. It appears that she is making this request for the purpose of ultimately resuming custody of her child once she is out of prison. She proposes as guardians Jared and Mindy Barber.

. . . .
In considering [Shawna's] sad history and the multigenerational problems of abuse, neglect, substance abuse and mental illness, the Court finds it is in the best interest of the child to deny the mother's request for a guardianship to be placed with the Barbers. This is in no way a reflection on the Barber's suitability as foster or adoptive parents. It is rather a recognition that if this child is with a relative or almost relative, she will be subject to frequent contacts from the mother, notwithstanding the best efforts of the Barbers. The Court does not see these contacts or potential contacts as being in the best interest of the child.

We agree. The record shows that any contact with Shawna would be detrimental to C.R.'s safety and well-being. In the nine days C.R. was in Shawna's care, Shawna put the child at risk of harm. She did not care for C.R., displayed mental instability, and expressed anger that she was unable to resume her social life. She threatened hospital staff and DHS personnel. Even while pregnant with C.R., Shawna placed the child in dangerous situations when she was charged with assault while participating in a felony and willful injury, for which she is now imprisoned. As the court noted:

[Shawna] has a long history of maladaptive behavior. It began when she was a child. She has carried consistent diagnoses of obsessive compulsive disorder, attention deficit hyperactivity disorder, oppositional defiant disorder, bipolar disorder, all exacerbated by a diagnosis of polysubstance abuse disorder. As a juvenile, she experienced placements in foster group care and

⁴ We agree with the court's determination that although there is a family connection between Shawna, C.R., and the Barbers, "it is too tangential for the Court to give it any particular weight."

ultimately was placed in the most restrictive setting available to a child in need of assistance: the Iowa Juvenile Home at Toledo. Throughout her youth she had multiple hospitalizations for mental health and substance abuse problems. She has never been able to comply with recommended treatment. There are no reasonable prospects that she will be able to resume custody of this child in the foreseeable future.

We further agree with the court that Shawna will not be successful in regaining custody of C.R. when she is out of prison. Shawna's extensive history of criminal activity, violence, and mental illness and instability prove it is unlikely she will be able to responsibly parent C.R. now or in the future. It is not in C.R.'s best interests to have any future contact with her mother. The court did not err in denying guardianship of C.R. with the Barbers and in terminating Shawna's parental rights. We affirm.

AFFIRMED.