

IN THE COURT OF APPEALS OF IOWA

No. 9-881 / 09-1431
Filed November 12, 2009

**IN THE INTEREST OF G.M.F.,
Minor Child,**

**N.L.J.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Woodbury County, Mary Jane Sokolovske, Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Martha McMinn, Sioux City, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Patrick Jennings, County Attorney, and Dewey Sloan, Assistant County Attorney, for appellee State.

Amanda Van Wyhe, Sioux City, for minor child.

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

DANILSON, J.

A mother appeals from the juvenile court's order terminating her parental rights to her nine-month-old daughter, G.M.F. We affirm.

I. Background Facts and Proceedings.

G.M.F.'s removal from the mother's care on January 16, 2009, occurred less than a month after her birth. G.M.F.'s removal was due to the mother's lack of parenting skills and inability to appropriately care for G.M.F. At the time of removal, the mother was seventeen-years-old and under the custody of the Iowa Department of Human Services (DHS) herself. The mother moved out of her mother's home in October or November 2006 and came to the attention of DHS in May 2007, when living arrangements at her grandmother's were not working out. The mother was suspended from school due to assaultive behaviors, used drugs and alcohol, associated with inappropriate peers, and was sexually active without regard to the consequences of her actions. In September 2007, the mother was adjudicated a child in need of assistance (CINA).

In June 2008, during her pregnancy with G.M.F., the mother was placed at the Iowa Juvenile Home for her own safety and the safety of the unborn child. This placement was due to the mother's continued instability and irresponsible behaviors. The mother remained at the Iowa Juvenile Home until mid-December 2008, at which time she entered family foster care. G.M.F. was born several weeks later, and the mother remained in family foster care with G.M.F. During this time, the mother yelled at G.M.F., told her to "shut up," and placed her in a car seat and then slammed the car seat on the floor. The mother ignored G.M.F.'s physical and emotional needs and refused to listen to parenting advice.

The mother had unrealistic expectations for G.M.F. and exhibited no nurturing skills. The mother got upset when she wanted to sleep but G.M.F. was awake, and ignored G.M.F. when she needed to be changed or fed.¹

The mother did not resist G.M.F.'s removal. She thereafter advised the juvenile court she was "standing silent" with regard to G.M.F.'s CINA adjudication on March 5, 2009. G.M.F. continued in family foster care with the same family, where she has remained. The mother entered a shelter. The mother was granted supervised visits with G.M.F. twice a week. The mother consistently failed to attend visits, sometimes without reason. The mother progressively missed more and more visits with G.M.F. nearing the time of the termination hearing. On the visits she attended, the mother acted appropriately with G.M.F. for the most part, but repeatedly had to be reminded how to do routine tasks, such as filling a bottle with the correct ratios of water and formula.

The mother failed to improve her parenting skills and resisted help and services that were offered to her. She failed to comply with the family case plan expectations. She did not find stable employment or housing. She worked at several fast food restaurants after G.M.F.'s birth, but quit one job and was fired from another. With regard to housing, the mother stayed at her mother's home for awhile, and her belongings are still there, but then she moved in with a friend. The mother reported that she left her mother's home because her brother told her that she was going to get kicked out.

¹ The mother and G.M.F. stayed at two different foster homes during the weeks after G.M.F.'s birth and prior to her removal: for the most part the mother and G.M.F. lived at the foster home the mother had lived in since mid-December, but they also stayed at a respite home for a few days. Both homes reported the mother's lack of parenting skills and her endangerment of G.M.F.

The mother suffers from depression and takes prescribed medication; however, she failed to consistently attend therapy or meet with her psychiatrist. The mother became pregnant again (by a different man than G.M.F.'s father) and indicated she wanted to have an abortion. She reported the father is from Mississippi and just moved to Iowa. The mother further indicated that the father is abusive toward her.

In July 2009, the State filed a termination petition. After a contested hearing, the court terminated the mother's parental rights on September 10, 2009, pursuant to Iowa Code sections 232.116(1)(d), (e), and (h) (2009).² The mother 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. Reasonable Efforts.

The mother contests the basis for the initial removal and adjudication of G.M.F. She alleges DHS placed her with G.M.F. in a foster home where the foster mother hoped to adopt G.M.F., which hindered her ability to parent G.M.F. The mother claims the foster mother reported false allegations, which prompted her removal from the home.

² Paternity testing confirmed the father of G.M.F., but he has not contested these proceedings. His parental rights were also terminated, and he does not appeal.

The mother is essentially arguing the State failed to make reasonable efforts to eliminate the need for continued removal and to return G.M.F. to her care. A parent's challenge to services by the state should be made when they are offered, not when termination of parental rights is sought after services have failed to remedy a parent's deficiencies. *In re A.A.G.*, 708 N.W.2d 85, 91 (Iowa Ct. App. 2005). The mother fails to indicate that she requested or otherwise challenged the adequacy of services prior to the termination hearing. We conclude this issue has been waived.

As the juvenile court noted:

The mother has a long history of emotional and behavioral problems. She receives social security disability as a result of her mental health problems and has been hospitalized in the past at Brentwood Behavioral Health and Whitfield Behavioral Health to stabilize her mental health. She stated at that time that she "hears things and hallucinates a lot." She has previously been diagnosed with Oppositional Defiant Disorder, Major Depressive Disorder with Psychotic Features, Mild Mental Retardation, Borderline Intelligence, and Depressive Disorder NOS. The mother has never participated in services sufficient or consistent enough to address her mental health needs, including medication management.

The mother has limited knowledge of child development. She has refused the advice or assistance of the foster mother and service providers in an effort to reunify her with G.M.F. The mother was offered numerous visitations with G.M.F., but never took full advantage of those visits. The mother would be a no show or would cancel visits. A plethora of services was offered/provided to the mother as a result of her adjudication as a Child in Need of Assistance. She failed to utilize those services. No further services are available that could be offered/provided to the mother, that have not already been offered/provided, to correct the issues that resulted in G.M.F.'s removal.

The mother does what she wants, when she wants. She has refused to take any responsibility for her actions which resulted in G.M.F.'s removal from her care. She continues to blame others for all that has happened. She is unable to provide for G.M.F., emotionally, physically or financially, at this time and is unlikely to fulfill those needs at any time in the foreseeable future. G.M.F. has

never been returned to the mother's care since her removal on January 16, 2009.

We are convinced that G.M.F.'s interests are best served by terminating the mother's parental rights and continuing G.M.F.'s placement in a safe and stable home. By the time of the termination hearing, G.M.F. had been removed from the mother's care for more than seven months, and she was less than eight months old. Although we recognize G.M.F. was in the mother's care for only a short time, we cannot say the removal was unreasonable when the mother's behavior endangered G.M.F. and she was completely unable to care for G.M.F.'s needs.

The mother has demonstrated years of mental and emotional instability, reckless behavior, and failure to comply with services provided to her. The mother continues to have many unresolved mental health, parenting, and responsibility issues, and G.M.F. cannot be returned to her care. The law demands patience to allow parents to remedy their deficiencies, but that time must be limited, because the delay may translate into intolerable hardship for the children. *In re C.D.*, 524 N.W.2d 432, 435 (Iowa Ct. App. 1994). We find termination of the mother's parental rights is in G.M.F.'s best interests.

AFFIRMED.