IN THE COURT OF APPEALS OF IOWA

No. 9-997 / 09-1680
Filed December 30, 2009

IN THE INTEREST OF C.S.,
Minor Child,

T.S., Mother,
Appellant.

Appeal from the Iowa District Court for Dallas County, Virginia Cobb, District Associate Judge.

A mother appeals from the termination of her parental rights. **AFFIRMED.**

Donna Schauer, Adel, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Wayne Reisetter, County Attorney, and Sean Wieser, Assistant County Attorney, for appellee State.

Steve Clarke, Des Moines, for minor child.

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

DANILSON, J.

T.S. appeals the termination of her parental rights to C.S., born in February 2009. We affirm.

I. Background Facts and Proceedings.

T.S. and her children have been involved with the Iowa Department of Human Services (DHS) since 2006. Reports in January 2006, May 2006, and October 2007, were founded based on T.S.'s failure to provide adequate shelter for her three older children. A fourth report was founded after the older three children were removed by ex parte order on January 4, 2008.[1] The older children were adjudicated children in need of assistance (CINA) on April 11, 2008, and T.S.'s parental rights were terminated to the children on July 23, 2009.[2] This court affirmed the termination of parental rights on October 7, 2009. *In re R.S.*, No. 09-1186 (Iowa Ct. App. Oct. 7, 2009).

Throughout T.S.'s pregnancy with C.S., T.S. denied she was pregnant. T.S. lied to both the caseworker and the juvenile court about her pregnancy status. At a hearing for her older three children on February 4, 2009, T.S. agreed to take a pregnancy test, but stated she would have to wait because she was in her menstrual cycle. C.S. was born less than two weeks later, and a removal order was issued the following day. C.S. was placed in family foster care, and has remained there since that time.

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[1] T.S. had been committed to a hospital with suicidal ideations and left the children with a seventy-six-year-old man who was unable to care for them due to his medical conditions. The house in which the family had lived was unsanitary and uninhabitable. While in the hospital, T.S. agreed to the children's placement in foster care.

[2] The mother would not reveal the names of the children's fathers. She said that one was the result of rape and another was the result of contact with a drug abuser.

A case permanency plan was established in January 2008, and T.S. has been provided parenting classes and numerous other services since that time. However, T.S. did not begin to utilize services until May 2009. Throughout that time, the State and DHS continued to express concerns about T.S.'s progress. T.S. was diagnosed as suffering from attachment disorder, but failed to receive adequate mental health treatment that was offered to her. When T.S. did attend parenting classes, she failed to fully participate and did not show progress in her parenting skills. T.S. continued to be in denial of her inadequacies as a parent and provider, showed a lack of insight, and made poor decisions. Most importantly, T.S. was unwilling to consistently utilize services offered to her to allow C.S. to be returned to her care.

In August 2009, the State filed a termination petition. After the contested hearing, the court terminated T.S.'s parental rights to C.S. on October 20, 2009, pursuant to Iowa Code sections 232.116(1)(d) and (h) (2009). T.S. 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.

T.S. argues the court erred in terminating her parental rights because reasonable efforts were not made toward reunification. T.S. alleges DHS's goal from day one was to terminate her parental rights to C.S. T.S. contends she prepared a suitable home for C.S. but DHS did not allow her visits with the child

to progress to unsupervised or overnight visits. T.S. further argues she adequately complied with parenting classes and therapy, but the State did not make an honest effort toward reunification.

Iowa Code section 232.102(7) requires DHS to "make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interests of the child." In *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000), the court explained that "[t]he State must show reasonable efforts as a part of its ultimate proof the child cannot be safely returned to the care of a parent." The focus of reunification is on the health and safety of the child and mandates a permanent home for a child as early as possible. *Id.*

The State contends T.S. has failed to preserve error on this issue. While DHS has an obligation to make reasonable efforts toward reunification, a parent has an equal obligation to demand other, different, or additional services prior to a permanency or termination hearing or the issue is considered waived for further consideration on appeal. *In re A.A.G.*, 708 N.W.2d 85, 91 (Iowa Ct. App. 2005). If a parent has a complaint regarding services, the parent must make such challenge at the removal, when the case permanency plan is entered, or at later review hearings. *In re C.H.*, 652 N.W.2d 144, 148 (Iowa 2002). Moreover, voicing complaints regarding the adequacy of services to a social worker is not sufficient: a parent must inform the juvenile court of such challenge. *Id.* In this case, we are unable to find where T.S.'s requests for additional services were made a part of the court record. No formal actions were taken by T.S. or her attorney during court proceedings to challenge or object to services offered by DHS.

Even assuming, *arguendo*, that T.S. has properly preserved this issue for our review, we conclude T.S. was provided more than adequate services to promote her reunification with C.S. However, T.S. failed to make use of all the opportunities for reunification and did not fully and willingly comply with services offered to her. We do not find the decision of DHS to limit visitation to be unreasonable under the circumstances in this case. T.S. was resistant to individual therapy, despite the fact that she suffers from attachment disorder and was ordered to receive mental health treatment. Further, when T.S. did finally begin to attend parenting classes, she only minimally participated and showed no progress in her parenting skills.

As the juvenile court noted:

> In the last four months preceding the hearing, it appeared that T.S. was starting to be willing to cooperate; however, Ms. Hoffman asserted that although T.S. has had some success in keeping her visits, has completed her evaluations, and is engaging in individual therapy, Ms. Hoffman does not see any real insight on T.S.'s part in understanding parenting. While the individual therapy T.S. is receiving may help T.S. address her attachment disorder, it will likely be months or even years before that progress can positively affect her parenting abilities. C.S. cannot wait for T.S. to make progress. The court also notes that the home has improved somewhat, although cleanliness was still an issue, and while T.S. seemed to be starting to mimic and adopt appropriate parenting actions, there is a lack of insight or any real internal change in her capacity to understand parenting. She may learn from observing others, but has not incorporated any real sense of the nature of parenting.
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> The court is still concerned about the risky behavior in which T.S. engages toward herself and that resulted in this most recent pregnancy which behavior would have occurred while she was receiving services. In her testimony she indicated she couldn't say who the father was, wouldn't reveal names, and wasn't 100% sure anyways.

Upon our review, we find this record supports a finding that the State made reasonable efforts at reunification consistent with the child's best interests. T.S. has demonstrated a history of risky behaviors, lack of insight, poor decision making, and resistance to services.

> Insight for the determination of the child's long-range best interests can be gleaned from "evidence of the parent's past performance for that performance may be indicative of the quality of the future care that parent is capable of providing."

Id. (quoting *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981)). T.S. has failed to show any significant improvement in her areas of weakness as a parent. Since the child was removed from T.S.'s care, T.S. has done little to improve the situation and resume care of the child. We are convinced that the child's interests are best served by terminating T.S.'s parental rights and making her eligible for continued placement in a safe and stable home.

We conclude T.S. has failed to preserve error on the issue of the adequacy of services provided to her by DHS, and we further find clear and convincing evidence supports termination of T.S.'s parental rights under sections 232.116(1)(d) and (h). The record clearly supports T.S.'s inability to provide a safe environment for the child, and returning the child to her home is not an option. There is no reason to delay the child the permanency she needs and deserves. We affirm the termination of T.S.'s parental rights.

AFFIRMED.