

IN THE COURT OF APPEALS OF IOWA

FILED

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CLERK SUPREME COURT

IN THE INTEREST OF J.R.C., A Child)

Filed May 28, 1985

C.L.C., Natural Mother,)

5-185
84-1487

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Appellant.)

Appeal from the Iowa District Court for Linn County - Brent Harstad,
District Associate Judge, and Sylvia Lewis, Juvenile Court Referee

The mother of a two-year-old boy appeals from the juvenile court order
terminating her parental rights. AFFIRMED.

Susan E. Harman of Lynch, Dallas, Smith & Harman, Cedar Rapids, for
appellant mother.

Mitchell E. Turner of Fisher, Martin, Ehrhart & McCright, Cedar Rapids,
guardian ad litem, for the child.

Thomas J. Miller, Attorney General, and Charles K. Phillips, Assistant
Attorney General, for appellee.

Heard by Oxberger, C.J., and Donelson and Hayden, JJ

DONIELSON, J.

C.L.C., the mother of a two-year-old boy, appeals from the juvenile court order terminating her parental rights. She challenges the sufficiency of the evidence to establish that the child cannot be returned to her custody. We affirm.

The child in question is a boy born in October 1982. He was placed in foster care almost immediately after birth due to his mother's mental illness.

In February of 1983, the child was adjudicated to be in need of assistance within the meaning of Iowa Code sections 232.2(5)(b) and 232.2(5)(c)(2). The court transferred legal custody of the child to the Department of Human Services for out-of-home placement in foster family care.

A case plan was submitted to the court which detailed certain goals and expectations to be met by the mother in order for her to assume the care and custody of the child. The mother had little success in completing the requirements and the State ultimately petitioned for termination of parental rights.

In July 1984, the juvenile court referee terminated the parental rights of both parents. With respect to the father, the juvenile court relied on abandonment. With respect to the mother, the court relied on Iowa Code section 232.118(5), which permits termination if the court finds:

a. The child has been adjudicated a child in need of assistance pursuant to section 232.96; and

b. The custody of the child has been transferred from his or her parents for placement pursuant to section 232.102 for at least twelve months; and

c. There is clear and convincing evidence that the child cannot be returned to the custody of his or her parents as provided in section 232.102.

The findings and order terminating parental rights was affirmed upon rehearing and the mother had appealed.

Our review of this action is de novo. Iowa R. App. P. 4. It is our duty to

review the facts and adjudicate rights anew on propositions properly preserved and presented to us. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984). We accord weight to the fact findings of the juvenile court although we are not bound by them. Iowa R. App. P. 14(f)(7). As always, our paramount concern is the best interests of the child. In re T.D.H., 344 N.W.2d 268, 270 (Iowa App. 1983). In this regard, we look to the child's long-range as well as immediate interests. In re W.G., 349 N.W.2d at 492. The supreme court has recognized that insight for this determination can be gained from evidence of a parent's past performance. "[T]hat performance is 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)).

Our careful review of the record convinces us that the termination order should be affirmed. Although C.L.C. has expressed her love for her child and her desire to have custody, the record reveals that she is not intellectually or emotionally capable of providing the child with a suitable environment.

As the trial court indicated, the mother has an extensive history of having difficulties living independently due to illness and a low level of intellectual functioning. She has been diagnosed as being schizophrenic and remains under psychiatric care. She has difficulty in fulfilling her own basic needs for food, clothing and shelter, and has been hospitalized several times, often because she could not cope with independent living.

C.L.C. argues that she has not been given an adequate opportunity to demonstrate what her parenting abilities are or can be in the future. We cannot agree. In April 1983, a case plan was filed with the court which set forth specific goals for the appellant to achieve over a six-month period. In the first month, the mother was expected to achieve compliance in three areas: 1) seeing her psychiatrist, 2) maintaining a residence, and 3) visiting her child. As of February 1984, C.L.C. had not progressed beyond the requirements to be met in this initial stage. The record reflects that she was unable to maintain a permanent

residence. In the year prior to the termination hearing, she lived at her apartment, the county care facility, the Catholic worker house, and various hospitals. Although required to do so, she did not inform the Department of Social Services of the changes in her address.

The record also reflects that C.L.C. often missed or declined opportunities to visit with her child. Mabelle Frantz, a homemaker service provider assigned to the case, testified that in 38 scheduled appointments she was only able to find or contact C.L.C. 21 times. The mother felt up to seeing her child 12 of those 21 occasions. Her reasons ranged from health problems to just not feeling up to it. In the three months prior to the termination proceeding, C.L.C. requested visitation only once. Elizabeth Homrighausen, the child protective services worker assigned to the case, stated that C.L.C.'s failure to demonstrate a consistent interest in her son precluded development of her child-rearing skills.

The cumulative testimony of social service workers, health professionals, and the foster father reflects concerns about the depth of the mother's interest in her child as well as her sensitivity to the child's needs. All social workers involved in the case testified that C.L.C. would be mentally and emotionally incapable of caring for the child on a long-term basis. There is little, if any, basis in the record to dispute this conclusion. Furthermore, there is no evidence that C.L.C.'s mental or intellectual capabilities will improve in the future.

Our decision in this case is not an easy one and we do not make it lightly. It is obvious from the record that C.L.C.'s health problems were part of the reason she had difficulty complying with the case plan. Yet contrary to the appellant's characterization of the termination proceedings, we do not view our decision as "penalizing" her for her illness. Clear and convincing evidence supports the conclusion that the mother has never been capable of caring for her child and there is no indication that the situation will change. The child simply cannot be returned to his mother's custody without being subjected to the potential neglect

our statutes are designed to protect against. Accordingly, we affirm the juvenile court's termination of the mother's parental rights.

AFFIRMED.