

IN THE COURT OF APPEALS OF IOWA

FILED

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CLERK SUPREME COURT

IN THE INTEREST OF)
J.T., T.F., L.F., & D.F.,)
Minor Children,)
C.F., Mother,)
Appellant.)

8-448
88-740

319

Appeal from the Iowa District (Juvenile) Court for
Greene County (644), William C. Ostlund, Juvenile Referee.

The mother of four children appeals the order
terminating her parental rights. **AFFIRMED.**

James A. Malloy of Nelson, Johnson & Malloy, Ogden, for
appellant mother.

Thomas J. Miller, Attorney General of Iowa, and
Valencia Voyd McCown, Assistant Attorney General, for the
appellee State.

Vicki R. Copeland of Wilcox, Polking, Gerken,
Schwarzkopf & Hoyt, Jefferson, guardian ad litem for the
children.

Heard by Schlegel, P.J., and Hayden and Habhab, JJ.

SCHLEGEL, P.J.

This appeal involves four children, three of whom have been in foster care for nearly three and one-half years, and one of which has been in foster care for nearly two and one-half years. The record shows that the children were initially removed from their mother's home because of the failure of C.F., the mother, and T.F., the father, to provide the children with suitable housing, their neglect of the children, and the potential exposure of the children to harmful conditions which were under the parents' control. The older three children, J.T., T.F., and L.F., were placed in foster care in June of 1985. D.F. was unborn at that time. He was born on October 13, 1985, and on July 1, 1986, was adjudicated a Child in Need of Assistance and was placed in the same foster home with his siblings.

The petition for termination of parental rights was filed on November 23, 1987, and on April 14, 1988, after hearing, an order was entered terminating the parental rights of C.F. and T.F. The mother brings this appeal. The father has not appealed the termination of his rights. We affirm.

We review proceedings to terminate a parent-child relationship de novo. We review the facts as well as the law and adjudicate the parent's rights anew. In the Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

Weight may be accorded to the findings of the juvenile court, particularly with regard to the credibility of witnesses. Id. Central to a determination of this nature are the best interests of the child. Long v. Long, 255 N.W.2d 140, 143 (Iowa 1977). In this connection we look to the child's long-range as well as immediate interests. Hence, we consider what the future likely holds for the child if returned to his or her parents. In making that decision, we are permitted to consider 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. In re O'Neal, 303 N.W.2d 414, 422-23 (Iowa 1981).

The State brought this termination action under the provisions of section 232.116(1)(e), which provides:

1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

* * *

e. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months.

(3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.

There is no dispute that the first two grounds of section 232.116(1)(e) have been met. The mother contends that based upon the State's failure to comply with the mandate of Iowa Code section 232.102 (1987), it has not been shown by clear and convincing evidence that the children could not be returned to the custody of their mother. It is her contention that section 232.102 requires the Iowa Department of Human Services to "make every effort to return the child to the child's home as quickly as possible."

C.F. concedes that she was not capable of parenting the children at the time of the termination hearing. It is her contention, however, that the State did nothing to resolve the problem. She claims that she suffers from a mental disorder that is treatable, and such treatment would enable her, in the future, to parent her children. She complains that the State did not provide her with the counseling and treatment that would have made it possible for her to gain the necessary parenting skills.

The record is replete with evidence of the efforts of the Iowa Department of Human Services to provide services to C.F., but without meaningful success related to the improvement of the home and care of the children necessary to achieve reunification of this family. It is clear from the record that one of the major problems in achieving any success was C.F.'s refusal to believe or acknowledge that

she was in any way deficient in her parenting skills. The evidence of those deficiencies is also overwhelming.

The evidence shows that both the Department's and C.F.'s experts diagnosed C.F. as having a borderline personality disorder. The evidence further shows that it is possible with therapy for C.F. to improve to the extent that she would be able to have her children back in her home. All experts agree that in order to achieve that goal it would be necessary for her to undergo extensive therapy and counseling, and that after a period of three to five years the effectiveness of the therapy could be determined within six months from its completion. C.F. urges this court to delay the termination to allow her time to complete the therapy that may rehabilitate her. In Interest of Voeltz, 271 N.W.2d 719 (Iowa 1978), the Iowa Supreme Court rejected that suggestion and stated: "We are not content to allow the children to remain indefinitely in foster care to await their mother's unlikely recovery." Id. at 724. Given C.F.'s failure to take advantage of the help offered her, we are convinced that recovery is unlikely, even if the termination were delayed.

In this case, as in the case In Interest of A.C., 415 N.W.2d 609, 613 (Iowa 1987), where the mother was undergoing treatment for mental disorders in order to achieve reunion with her children, the court stated:

There are a number of stern realities faced by a juvenile judge in any case of this kind. Among the most important is the relentless passage of

precious time. The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. Neither will childhood await the wanderings of judicial process. The child will continue to grow, either in bad or unsettled conditions, or in the improved and permanent shelter which ideally, at least, follows the conclusion of a juvenile proceeding.

* * *

It is unnecessary to take from the children's future any more than is demanded by statute. Stated otherwise, plans which extend the twelve-month period during which parents attempt to become adequate in parenting skills should be viewed with a sense of urgency. Of course some suggested extensions will prove to be appropriate. The judge considering them should however constantly bear in mind that, if the plan fails, all extended time must be subtracted from an already shortened life for the children in a better home.

Id. at 614.

Three of these children have been in foster care for nearly three and one-half years and the youngest for nearly two and one-half years. It would be unconscionable to require that they remain in parentless limbo for the added years necessary to determine if C.F. can overcome her problems and become a parent to them. There is uncontrovertible evidence that they cannot now be returned to the home of their mother. In describing C.F., "we do not speak in a spirit of criticism, but with a sense of sadness." Interest of Voeltz, 271 N.W.2d at 724. Children, however, should not be required to endlessly suffer the parentless limbo of foster care. Long, 255 N.W.2d at 146. They should not be required to endlessly

await the maturity of their natural parent. In Interest of
T.D.C., 336 N.W.2d 738, 744 (Iowa 1983).

The statutory requirements are met. The best interests of these children require that the termination of C.F.'s parental rights be made final.

AFFIRMED.