**IN THE COURT OF APPEALS OF IOWA**

No. 1999-311 (9-541) / 99-362
Filed June 14, 2000

**IN THE INTEREST OF**
**M.L.**, Minor Child,

**F.K.**, Mother,
Appellant.

FILED
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CLERK SUPREME COURT

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Appeal from the Iowa District Court for Polk County, Constance Cohen, Judge.

Mother appeals the decision of the district court which terminated her parental rights to her minor child. **AFFIRMED.**

James A. Benzoni of Benzoni Law Office, P.L.C., Des Moines, for appellant.

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

Mike Bandstra, Des Moines, guardian ad litem for minor child.

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

**VOGEL, J.**

A mother appeals the decision of the juvenile court which terminated her parental rights to her minor child. She claims the court should have transferred jurisdiction of this case to Texas, where she now lives. She also claims there is insufficient evidence to support termination. We affirm on appeal.

Felicia is the mother of Michael, who was born in January 1998. She has a history of mental illness. In the past she has been diagnosed with bipolar disorder, post-traumatic stress disorder, delusional (paranoid) disorder, and schizoid personality disorder. She has not been compliant with medication or counseling for her mental illness. Her parental rights to two older children were terminated.

Michael was placed on an apnea monitor because of an episode where he quit breathing. Despite Michael's medical problems, Felicia did not feel it was necessary to keep medical appointments for him. She was not cooperative with Visiting Nurse Services. The Department of Human Services (DHS) issued a founded report of denial of critical care. Michael was removed from Felicia's care in April 1998.[1] He was placed in foster care.

Michael was adjudicated to be a child in need of assistance (CINA), pursuant to Iowa Code sections 232.2(6)(c)(2) (child is likely to suffer harm due to parent's failure to exercise care) and (n) (parent's mental condition results in child not receiving adequate care). Under the case permanency plan, Felicia

[1] In the recently-submitted case No. 0-214, *F.K. v. Iowa Dist. Court*, the plaintiff-mother contends our removal statute, Iowa Code 232.78 (1997), is factually unconstitutional, but does not challenge termination of her parental rights on that basis. Therefore, our future decision in *F.K.* cannot affect our decision today affirming the termination of Felicia's parental rights.

was required to participate in family preservation services, obtain a psychological evaluation, and participate in random drug testing twice each week. A drug test on April 29, 1998, was positive for cannabis. Felicia failed to participate in family preservation services or obtain a psychological evaluation.

Felicia was not consistent in attending supervised visitation. She was first offered visitation twice a week. Later, visitation was increased to three times a week for one and one-half hours. In July 1998, she missed six of twelve scheduled visits.

In July 1998, Felicia quit providing drug tests. Her last visit with the child was on July 31, 1998. Felicia moved to Texas in August 1998 and asked to have the case transferred there. This was her second move after Michael's removal, with no notice to DHS. The juvenile court denied this request. Thereafter, Felicia had sporadic telephone contact with DHS.

In November 1998, the State filed a petition to terminate Felicia's parental rights. After the petition was filed, Felicia obtained a psycho-social evaluation.[2] The evaluation found she suffered from depression. At the termination hearing held on January 8, 1999, Felicia testified she was employed and had stable housing. She stated she was in contact with social workers in Texas and believed she could resume care of her child.

The juvenile court entered an order on February 11, 1999, terminating Felicia's parental rights to Michael under section 232.116(1)(b) (abandonment), (d) (child CINA, child removed for six months, parent has not maintained

[2] Felicia participated in the psycho-social evaluation before the termination hearing, but the report was not completed until after the hearing. The juvenile court held the record open to allow her to submit the psycho-social evaluation.

significant and meaningful contact with child), (f) (child CINA, parent's rights to another child were terminated, parent does not respond to services), and (g) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). While not specifying the specific grounds supporting the termination, the juvenile court found it was in Michael's best interests to terminate Felicia's parental rights because he could not be returned to her care in the foreseeable future. Felicia appealed.

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Felicia contends the termination of her parental rights was inappropriate. She asserts she did not abandon the child. Felicia points out she cared for the child for the first three months of his life, until he was removed from her care, and then she participated in visitation. Also, when she moved to Texas she requested to have the case transferred to where she was living. She asserts termination was premature and asks to have the case now transferred to Texas.

"Abandonment" means the giving up of parental rights and responsibilities accompanied by an intent to forego them. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996). Parental responsibilities include more than subjectively maintaining an interest in a child. *In re R.L.F.*, 437 N.W.2d 599, 601-02 (Iowa App. 1989). The concept requires affirmative parenting to the extent it is practical and feasible in the circumstances. *In re D.M.*, 516 N.W.2d 888, 891 (Iowa 1994).

Felicia has had no contact with Michael since July 1998. She made only sporadic telephone calls to DHS. Felicia admitted that when she moved to Texas, she did not know if the case could be transferred there. Her lack of contact with her child and DHS shows a lack of interest in her child. Since her move out of state, she has made very little progress in making herself available to assume her parental responsibilities. Although the court kept the record open for fourteen days or until January 22, 1999, she provided the court with no verification of her claims of securing housing, work, or participating in services while in Texas. We find it would not be in Michael's best interests to extend the case at this late date by transferring it to Texas. We determine Felicia's parental rights were properly terminated under section 232.116(1)(b).

When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court in order to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). Because we have found Felicia's parental rights were properly terminated on the ground of abandonment, we need not address the other grounds mentioned in the juvenile court order. We note, however, if these issues were addressed, there would be substantial evidence to terminate Felicia's parental rights on these grounds as well.

We affirm the decision of the juvenile court terminating Felicia's parental rights to Michael.

**AFFIRMED.**