

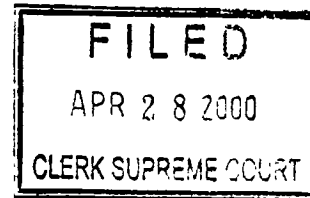
**IN THE COURT OF APPEALS OF IOWA**

No. 0-198 / 99-1810  
Filed April 28, 2000

**IN THE INTEREST OF C.J.D.  
and K.L.P.,**  
Minor Children,

**B.D., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

Mother appeals from the juvenile court order terminating her parental rights. **AFFIRMED.**

Douglas L. Roehrich, Sioux City, for appellant.

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

Marchelle M. Denker of the Juvenile Law Center, Sioux City, guardian ad litem for minor children.

Considered by Streit, P.J., and Zimmer and Hecht, JJ.

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**HECHT, J.**

Brenda D. appeals from the juvenile court order terminating her parental rights. She contends the court improperly terminated her rights pursuant to Iowa Code sections 232.116(1)(d), (e), and (k) (1999) because termination is not in her children's best interests. We affirm.

**I. Factual Background and Proceedings.** Brenda D. is the mother of three sons. Her oldest son is in the custody of his father and is not at issue in this appeal. Cody D. was eleven years old and Kyle P. was ten years old at the time of the termination hearing. Cody is a special needs child with Down's Syndrome. The children have different fathers whose interests are not at issue in this appeal.

In May of 1994, the Department of Human Services ("DHS") entered a founded child abuse report against Brenda for denial of critical care. The report occurred after Brenda failed to pick Cody up at the bus stop after school. She later drove to the school bus garage with Kyle in the car while intoxicated. Someone at the garage called the police and she was arrested and charged with public intoxication. The district court adjudicated Cody and Kyle to be children in need of assistance ("CINA") on October 10, 1994. The district court noted in its order that Brenda had a serious history of alcohol related offenses, did not accept or understand the seriousness of her alcohol dependency problem, and had been reluctant to participate in treatment programs. Brenda completed a substance abuse evaluation pursuant to her case permanency plan. The evaluation indicated she had a serious dependency problem and recommended

she attend intensive outpatient treatment. In a subsequent dispositional order, the district court allowed Kyle and Cody to remain in Brenda's custody provided she maintained sobriety. The record indicates Brenda maintained sobriety on her own for a short time but in July of 1996, she was arrested for operating while intoxicated and her driver's license was revoked. During the time in which this case was pending, Brenda attended at least five treatment programs. She made little progress and was often discharged for lack of attendance.

On July 28, 1997, the police responded to a call at Brenda's home to check on the babysitter taking care of Kyle and Cody. They discovered the person watching the children had a warrant out for a parole violation and had a history of sexual molestation. Brenda could not be found. The police report indicated they had responded to similar calls on two or three prior occasions at Brenda's home. Aside from this incident, the record also indicates Brenda's alcohol abuse has affected Kyle and Cody substantially. Kyle's therapist noted he has many behavioral problems stemming from his inability to trust; he is aggressive, has assaultive outbursts and an intense level of anger. Cody's behavior also deteriorated. His teacher noticed negative changes in his behavior; particularly that he was more defiant in class.

On September 4, 1998, Brenda indicated to her DHS worker that she had relapsed twice in recent months while taking Naltrexone. At that time, DHS removed Cody and Kyle from her home and placed them in foster care. Brenda exercised visitation with the boys, but visits were discontinued in March of 1999

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because Cody and Kyle displayed increasing negative behaviors after visiting their mother.

The district court held the termination hearing on October 12, 1999 and terminated Brenda's parental rights on October 14, 1999, pursuant to Iowa Code sections 232.116(1)(d), (e), and (k). Brenda appeals.

**II. Standard of Review.** We review proceedings to terminate a parent-child relationship de novo. Iowa R. App. P. 4; *In re J.D.B.*, 584 N.W.2d 577, 580 (Iowa App. 1998). We review the facts as well as the law and adjudicate the parent's rights anew. *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa App. 1998). Although we are not bound by them, we give weight to the trial court's findings of fact, especially when considering the credibility of witnesses. *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998).

**III. Termination of Parental Rights.** Our primary concern is the best interests of the children. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). Even if the statutory requirements for termination are met, the decision to terminate must still be in the best interest of the children. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

We look to the child's long range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing.

*R.K.B.*, 572 N.W.2d at 601 (quoting *In re C.M.W.*, 503 N.W.2d 874, 875 (Iowa App. 1993)). The district court terminated Brenda's rights pursuant to section 232.116(1)(d), (e), and (k). On appeal, she does not argue termination under

these sections was improper but rather argues termination of her parental rights was not in the best interests of Cody and Kyle.

Throughout the extent of this action, Brenda has demonstrated she does not consider herself an alcoholic and has not gained insight into her own difficulties. She has been in and out of at least five treatment programs for alcoholism. Her counselors noted she made minimal progress in the programs often because of poor attendance. Several of these programs discharged her because she did not attend. She failed to participate consistently in the various after-care services provided to her. Brenda did not take part in the parent's group because she thought it was "boring." As part of her case permanency plan and her after-care requirements, she was also obligated to attend Alcoholic's Anonymous on a weekly basis. She did not attend regularly and indicated at one time she did not intend to become an active member of AA.

Children should not have to wait for responsible parenting. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). Parenting cannot be turned on and off like a spigot; it must be constant, responsible, and reliable. *Id.* Cody and Kyle have been detrimentally affected by their mother's determination to keep drinking and her lack of effort to address her issues with alcohol. They are currently doing well in their foster care placement. Their foster parents have indicated, while they are not in a position to adopt the boys, they are willing to commit to long-term care and to facilitate a transition to an adoptive home. Accordingly, we conclude termination of Brenda's parental rights is in Cody and Kyle's best

interests. We affirm the district court's termination of Brenda's parental rights with respect to her children.

**AFFIRMED.**