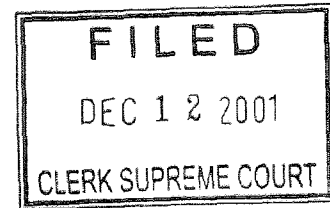


IN THE COURT OF APPEALS OF IOWA

No. 1-725 / 01-0723
Filed December 12, 2001



IN THE INTEREST OF J.D. and J.D., Minor Children,
P.D., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Joe E. Smith, District
Associate Judge.

The mother appeals from a juvenile court order terminating her parental
rights. **AFFIRMED.**

Ivy Ross Rivello of Parrish, Kruidenier, Moss, Dunn, Montgomery, Boles &
Gribble, L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, and M. Elise Pippin, Assistant
Attorney General, for appellee-State.

Susan Conn, Des Moines, for the minor children.

Considered by Sackett, C.J., and Mahan and Hecht, JJ.

MAHAN, J.

The mother appeals from a juvenile court order terminating her parental rights to her two children. She claims the juvenile court erred in concluding (1) there was clear and convincing evidence to terminate her parental rights and (2) terminating her parental rights is in the children's best interest. We affirm.

Background Facts and Proceedings. Joseph, born July 24, 1990, is the son of Patricia and Melvin. Jeffery, born March 25, 1993, is the son of Patricia and Tony. The children's fathers are not involved in this appeal. Both Joseph and Jeffery have been diagnosed with attention deficit hyperactivity disorder (ADHD) and currently take medications to treat this disorder. Jeffery also suffers from asthma and a speech delay for which he attends therapy. Patricia, along with her children, resided with her mother, grandmother and an uncle in Des Moines.

Patricia has a history with the Iowa Department of Human Services (DHS) beginning in 1993 with a confirmed report of denial of critical care for failure to provide adequate shelter. At that time there were roughly twenty-five to thirty dogs and cats living in the house. The house was cockroach infested, was filled with debris, and had no hot water or bathroom facilities. Patricia refused to sign an application for child protective treatment services. In 1995 the DHS again confirmed a report of denial of critical care for failure to provide adequate shelter and failure to provide proper supervision of the children. Four-year-old Joseph was seen walking alone on Ingersoll Avenue a mile away from his home. Upon investigation, DHS found the home again had no hot water, was cockroach

infested, had animal feces on the floor, and had litter and debris scattered throughout. The family agreed to homemaker services to help locate housing and other resources.

In September 1999 the City of Des Moines executed a search warrant on the family home. There were roughly three dogs and ten cats living in the house, which violated the city ordinance. While standing outside the home, a DHS worker noted a strong odor of filth and urine. The home had such an accumulation of debris, garbage, and animal and human feces that the floors were not visible. The children's room was not only completely covered with debris, toys, and clothing, but the mattresses had no sheets or blankets on them. The home also had a nonfunctioning sewer line, which prevented the family from flushing the toilet. The City of Des Moines deemed the home a fire hazard given the paper and boxes that were stacked around the water heater in the basement. The house was also deemed unsafe for the children's habitation. The allegation of denial of critical care for failure to provide adequate shelter was founded, confirmed, and placed on the child abuse registry.

A CINA petition was filed in September 1999. At the pretrial conference the court ordered that the children not be returned home until authorized by the city and DHS, and that the family cooperate with family preservation services. In October 1999 the children were adjudicated to be children in need of assistance under Iowa Code sections 232.6(c)(2) and (g) (1999). The children were removed from their mother's custody and placed in the temporary legal custody of DHS for placement commensurate with their needs. The dispositional hearing

was held on December 22, 1999, and the court found the children were still in need of assistance and continued temporary legal custody with DHS. A review and permanency hearing was held on November 20, 2000. At that time, Jeffery's father, Tony, voluntarily consented to the termination of his parental rights. The court again found the children in need of assistance and continued temporary legal custody with DHS.

In January 2001 the State filed a petition to terminate Patricia's parental rights to Joseph and Jeffery. After a hearing in February 2001 the juvenile court terminated Patricia's parental rights under sections 232.116(1)(c) and (e). Patricia appeals.

Standard of Review. We review termination proceedings de novo. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). Accordingly, we review both the facts and the law, and adjudicate rights anew. *In re T.A.L.*, 505 N.W.2d 480, 482 (Iowa 1993). Although we are not bound by them, we give weight to the district court's findings of fact, especially when considering credibility of witnesses. *C.B.*, 611 N.W.2d at 492. Our primary concern in termination proceedings is the best interests of the child. *Id.* To support the termination of parental rights, the State must establish the grounds for termination by clear and convincing evidence. *Id.* Clear and convincing evidence means there are no serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence. *Id.*

Iowa Code section 232.116(1)(e). Patricia claims the State did not present sufficient evidence to warrant termination of her parental rights. We

disagree. We find there is clear and convincing evidence to terminate her parental rights pursuant to this section.

There is no dispute the first three elements of Iowa Code section 232.116(1)(e) all existed as to both Joseph and Jeffery at the time of the termination hearing. The only dispute is whether the State presented clear and convincing evidence that the children could not be returned to the custody of their mother at that time. A child cannot be returned to a parent's care within the meaning of this section if the child would be placed in danger of any harm that would warrant a child-in-need-of-assistance adjudication. Iowa Code § 232.102(5); *In re R.L.*, 541 N.W.2d 900, 903 (Iowa Ct. App. 1995). If any one of the grounds listed in section 232.2(6) can be proven by clear and convincing evidence, there is a sufficient basis for the termination. *R.L.*, 541 N.W.2d at 903.

After a careful de novo review of the record, we find there is clear and convincing evidence to show the children could not be safely returned to Patricia's care. Patricia has not demonstrated the ability or the willingness to meet the special needs of her children. Patricia has been offered a myriad of services and training in an effort to assist her in parenting. Despite these services, the visitation between her and the children does not go well. Patricia has failed to react in a consistent way to her sons' behaviors. The children have hit their mother, swore at her, and have been very aggressive with each other in her presence. She has not been able to implement the skills necessary to improve her parenting. In addition, Patricia has failed to demonstrate the ability to maintain stable employment or provide for her own financial needs. Patricia

also has a history of not maintaining a sanitary and clean living environment for her children. Patricia testified she believed the condition of the home would not impose any health risk to the children. However, the record is clear that despite the numerous services given to Patricia, the unsafe and unsanitary conditions that existed at time of the adjudication in October 1999 continued to exist at the time of hearing in February 2001. We therefore conclude that at the time of the termination hearing Joseph and Jeffery continued to be in need of assistance under section 232.2(6) and could not have returned to Patricia's custody. Accordingly, we affirm the termination of Patricia's parental rights under section 232.116(1)(e).

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 to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Having found termination appropriate under section 232.116(1)(e), we need not reach Patricia's argument the juvenile court erred in terminating her parental rights pursuant to section 232.116(1)(c).

Best Interests of the Children. Patricia asserts termination of her parental rights is not in the children's best interests. She argues that she loves and shares an obvious bond with the children. We acknowledge that even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the child. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). However, our supreme court has stated the legislature "has made a categorical determination the needs of a child are promoted by

termination of parental rights" in cases meeting the conditions of section 232.116(1)(e). *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990). We conclude the termination of Patricia's parental rights under section 232.116(1)(e) is in the best interests of these children. We therefore affirm the decision of the juvenile court.

AFFIRMED.