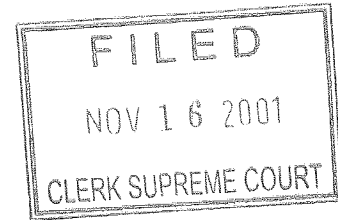


IN THE COURT OF APPEALS OF IOWA

No. 1-602 / 01-825
Filed November 16, 2001



IN THE INTEREST OF J.J. and
D.H., Minor Children,

M.H., Mother,
Appellant.

Appeal from the Iowa District Court for Clinton County, Arlen J. Van Zee,
District Associate Judge.

A mother appeals from the juvenile court order terminating her parental
rights to two of her children. **AFFIRMED.**

David M. Pillers of Pillers Law Offices, P.C., Clinton, for appellant.

Thomas J. Miller, Attorney General, Tabith Gardner, Assistant Attorney
General, and Jayme Kirsch, Assistant County Attorney, for appellee-State.

Kenneth F. Schoenauer of Schoenauer, Smith & Fullerton, Clinton, for
minor children.

Considered by Huitink, P.J., and Miller and Hecht, JJ.

PER CURIAM

A mother appeals the decision of the juvenile court which terminated her parental rights to her minor children. She claims the State did not present sufficient evidence to justify termination of her rights, and termination is not in the children's best interests. We affirm on appeal.

Marty is the mother of Joseph, born in July 1993, Dezmen, born in December 1995, and Austie, born in August 1998. This case involves only Joseph and Dezmen.¹ The children's fathers have not been involved in their lives, and are not involved in this appeal.

In August 1999, Marty left the children with a babysitter, saying she would return in a couple of hours. After twelve hours passed, the babysitter contacted the Department of Human Services (DHS). The children were removed from Marty's care and placed in foster care. On November 5, 1999, the juvenile court continued an adjudication finding the children were in need of assistance (CINA), and gave Marty thirty days to comply with services.

The children were returned to Marty's care in December 1999. Thereafter, Marty was evicted from her apartment and she did not have a job. In February 2000, she voluntarily placed Joseph with his paternal grandparents and Dezmen in foster care. The State filed a new CINA petition. The children were adjudicated CINA under Iowa Code sections 232.2(6)(a) and (b) (1999).

Marty moved to Chicago, Illinois, with her boyfriend, Rodrigo. She did not participate in visitation, or services, for several months. She returned to Iowa in June 2000. She then began visitation with the children. Marty moved back to

¹ Marty voluntarily consented to the termination of her parental rights to Austie.

Illinois in August 2000, effectively ending services and visitation. Marty's decision to leave the state again was emotionally difficult for the children. Joseph's therapist did not recommend reinitiating visitation without a showing of stability by Marty.

Marty did not establish a stable home or employment in Illinois. She did not complete a substance abuse program and a psychological evaluation. She made no other efforts to comply with services. Marty had two visits with the children in February 2001. These visits were discontinued due to the children's behavioral problems after the visits.

The State filed a petition to terminate Marty's parental rights to Joseph and Dezmen. The juvenile court terminated Marty's parental rights under sections 232.116(1)(d) and (e). The court found the major problem throughout the case was Marty's failure to put her children first. The court determined Marty had not shown a genuine effort to maintain communication with her children. The court also determined the children could not be returned to her care. Marty appeals.

I. Scope of Review

The scope of review in termination cases is *de novo*. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Our primary concern is the best interests of the child. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. Sufficiency of the Evidence

Marty contends the State did not present sufficient evidence to justify termination of her parental rights. She claims the children could be returned to

her care at the present time. Marty asserts she maintained consistent housing and employment in Illinois. She also asserts she kept a clean and organized household. She points out that she attended parenting classes, and can now better care for the children.

A court must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa Ct. App. 1996). The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In re D.A.*, 506 N.W.2d 478, 479 (Iowa Ct. App. 1993). At some point, the rights and needs of the child rise above the rights and needs of the parents. *J.L.W.*, 570 N.W.2d at 781.

We find the State presented clear and convincing evidence to show the children could not be safely returned to Marty's care. Contrary to Marty's assertion, the evidence shows Marty did not maintain stable housing and employment in Illinois. Marty only attended three parenting classes. Throughout the case, Marty did not put much effort into complying with services. Instead, she moved to another state, and had only sporadic contact with DHS and the children. Marty's actions show she consistently put her own interests above those of her children. Marty's parental rights were properly terminated under section 232.116(1)(e).

We also affirm the termination of Marty's parental rights under section 232.116(1)(d). Marty did not maintain significant and meaningful contact with the children after she moved to Illinois. As noted above, Marty had only sporadic

contact with DHS and the children. She did not maintain a place of importance in her children's lives.

III. Best Interests

Marty claims termination of her parental rights is not in the best interests of the children. She asserts she worked to be reunited with her children. Marty states DHS was not interested in returning her children to her because she chose to live in Illinois instead of returning to Iowa. She claims the visits she had with the children went well.

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 1984). In determining the best interests of a child, the court looks to the child's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional condition and needs of the child in deciding to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996).

We conclude termination of Marty's parental rights is in the children's best interests. Marty consistently put her interests before those of her children. Marty's mother testified:

Marty has always placed herself first and the children have always been second or third down the line. She's never going to change. It's always her needs or her wants and the children are after that. And that's not right. They should come first.

Marty is unable to meet the children's needs.

We affirm the decision of the juvenile court.

AFFIRMED.

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