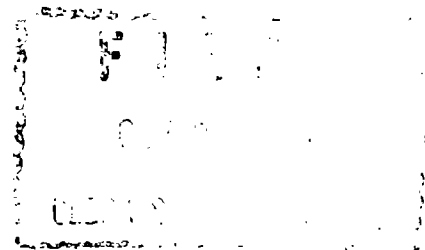


IN THE COURT OF APPEALS OF IOWA

No. 5-507 / 95-0282



IN THE INTEREST OF C.R.H., A Minor Child.

R.L.H., Mother,

Appellant.

Appeal from the Iowa District Court for Warren County, John P. Crouch,
Judge.

Mother appeals an order terminating her parental rights pursuant to Iowa Code
section 232.116(1)(g) (1995). **AFFIRMED.**

Richard B. Clogg of Elgin, Clogg & Patin, Indianola, for appellant.

Thomas J. Miller, Attorney General; Charles K. Phillips, Assistant Attorney
General; and Kevin Parker, County Attorney, for appellee State.

David C. Backstrom of Juvenile Defender Office, Des Moines, for appellee
minor child.

Considered by Donielson, C.J., and Habhab and Cady, JJ. Hayden, J., takes
no part.

DONIELSON, C.J.

Rebecca appeals the termination of her parental rights to her son Casey. She argues the State failed to prove by clear and convincing evidence that harm would result to Casey if he were returned to her care. We affirm.

I. STANDARD OF REVIEW.

We utilize de novo review in determining if there is clear and convincing evidence to support the termination of parental rights. *In re S.A.*, 502 N.W.2d 23, 25 (Iowa App. 1993). A child's rights and needs are paramount in termination proceedings. *Id.* The primary concern is the best interests of the children.

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. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

In re R.M., 431 N.W.2d 196, 199 (Iowa App. 1988) (citations omitted).

II. IOWA CODE § 232.116(1)(g).

Rebecca's parental rights were terminated pursuant to Iowa Code section 232.116(1)(g) (1995).

Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and

relationship between the parent and the child on any of the following grounds: . . .

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

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
- (4) 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 at the present time.

Rebecca does not dispute all the statutory grounds have been met except for subsection (4), which necessitates a finding that the child cannot be returned to the custody of the parent at the time of the termination hearing. *In re B.K.J. Jr.*, 483 N.W.2d 608, 610 (Iowa App. 1992). A child cannot be returned to the custody of a parent within the meaning of section 232.116(1)(g) when any one of the grounds listed in section 232.2(6) (child in need of assistance) can be proven by clear and convincing evidence. *Id.*

Casey was born August 5, 1993. Rebecca consented to his temporary removal and placement in foster care on October 4, 1993. Shortly thereafter she stipulated to his adjudication as a child in need of assistance. Casey remained in foster care throughout the duration of this case. On November 17, 1994, a petition to terminate Rebecca's parental rights to Casey was filed. A hearing was held on the petition, and an order was entered terminating her parental rights.

Casey was placed in foster care because he had serious health problems, and Rebecca and her sister were unable to care for him. Casey has asthma and requires specialized treatment. During the first three months of his foster care placement he required twenty-one trips to the emergency room. In November 1993, he suffered from pneumonia, a respiratory virus, and a partially collapsed lung. His asthma is treated with the use of a nebulizer. Despite opportunities to do so, Rebecca has failed to obtain the training necessary to administer the nebulizer treatment to Casey. Her failure to obtain this training precluded her from having longer and overnight visits with him. Despite the risk to Casey's health, Rebecca continued to smoke cigarettes. Even though she claims not to have smoked in Casey's presence, she did not comprehend the danger of exposing Casey to a vehicle or home environment permeated with cigarette smoke.

Rebecca was provided with in-home services and counseling, but she did not make any real effort to fully utilize these services. Rebecca admitted she had a drug problem and had used crank. As a result, she was offered treatment through the Harold Hughes Center. Despite an agreement to do so, she failed to participate in a follow-up aftercare program after undergoing substance abuse treatment.

At the termination hearing Rebecca conceded she still did not feel like she could care for Casey and treat his asthma problems. She also admitted she had not taken advantage of all of the services offered by the Iowa Department of Human

Services. Rebecca testified she had not been particularly motivated to regain custody of Casey. When asked if she saw herself being able to care for Casey at some point in the future, Rebecca indicated she did not and admitted she was not doing anything at the present time in order to prepare herself for reunification of her family. She testified she did not want her parental rights terminated and wanted Casey placed in the care of a couple who are the guardians of her oldest child. By placing Casey with this couple, Rebecca hoped to continue to visit Casey and foster a relationship between him and his three siblings.

There is clear and convincing evidence to support the termination of Rebecca's parental rights. Rebecca is a young mother who has essentially abdicated her parental responsibilities to others. She has four children, all of whom have been raised primarily by family, friends, and foster care placements. Rebecca concedes her inability and lack of motivation to care for Casey as his mother; however, she wants to control his placement so she can continue to visit him at her convenience. Casey is not required to endlessly await the maturity of Rebecca. *See In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). Despite the provision of services and the passage of over a year's worth of time, Rebecca remains unable to adequately care for Casey's needs. Contrary to the assertions in her brief, there is no compelling evidence of a bond between her and Casey, or Casey and his siblings, which would preclude the termination of her parental rights.

Despite the seriousness of Casey's asthma, Rebecca characterized Casey's nebulizer treatments as "too complicated" and admitted she had not made any efforts to go to classes to learn how to use the nebulizer. Casey is a child in need of medical treatment, and Rebecca is unwilling and unable to provide such treatment. Casey would remain a child in need of assistance if returned to Rebecca's care and would be at risk for continued harm. Iowa Code §§ 232.2(6)(e), 232.102(5)(b) (1995). There was clear and convincing evidence to support the termination of parental rights, and we affirm the order of the juvenile court.

AFFIRMED.