

IN THE COURT OF APPEALS OF IOWA

FILED

JUN 25 1986

CLERK SUPREME COURT

IN THE INTEREST OF C.C.,
A Minor Child;

M.C. and D.C., Parents

Appellants.

Filed June 25, 1986

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Appeal from the Iowa District Court for Black Hawk County (No. T 474) -
William P. Evans, District Associate Judge.

The natural parents of a four-year-old girl appeal from the juvenile court
order terminating their parental rights. **AFFIRMED.**

John S. Pieters, of Pieters & Pieters, Waterloo, for appellants.

Thomas J. Miller, Attorney General, Gordon E. Allen, Special Assistant
Attorney General, and Charles K. Phillips, Assistant Attorney General; Janet
Pederson, Assistant County Attorney, for appellee, the State of Iowa.

Heard by Oxberger, C.J., and Schlegel, and Sackett, JJ.

SACKETT, J.

M.C., the natural mother of four-year-old C.C., and D.C., the natural father, appeal from the juvenile court order terminating their parental rights pursuant to Iowa Code §232.116(5) (1985). M.C. and D.C. contend there was not sufficient evidence to support the termination. We affirm.

C.C., born in July, 1981, is the youngest of four children of M.C. and D.C. In August, 1982, the juvenile court determined C.C. to be a child in need of assistance and placed her in a foster home. C.C. was eleven months old at the time and living with M.C., her mother, who was separated from D.C. The three other children were living with D.C. The parents have since reunited and are living together.

In May, 1983, the Department of Human Services recommended C.C. remain in foster care. That recommendation was based on several factors. C.C. was defined as a "special needs" child, being developmentally delayed, moderately retarded and having an emotional disability. The juvenile court ordered C.C. remain in foster care. Examination of C.C. revealed she was making rapid developmental progress in foster care. C.C. remained in foster care after department review rehearings in October, 1983; January, 1984; and August, 1984, at which time the department recommended termination of M.C.'s and D.C.'s parental rights.

On September 26, 1984, the State of Iowa filed a petition to terminate the parental rights of M.C. and D.C. with respect to C.C., pursuant to Iowa Code §232.116(5)(1985). Section 232.116(5) provides a child in need of assistance who has been out of the parents' custody for at least twelve months cannot be returned there. The juvenile court granted the state's petition and terminated

M.C.'s and D.C.'s parental rights with respect to C.C. M.C. and D.C. have appealed.

I.

The issue before us is whether there is clear and convincing evidence C.C.'s custody cannot be returned to M.C. and D.C., her natural parents, and whether C.C. would suffer harm if returned. Our review is de novo. Iowa R. App. P. 14(f)(7); In Interest of C.W., 342 N.W.2d 885, 886 (Iowa App. 1983).

II.

Iowa Code §232.116(5) provides the court may order termination of parental rights where the court finds:

- (a) The child has been adjudicated a child in need of assistance pursuant to Section 232.96; and
- (b) The custody of the child has been transferred from the child's parents for placement pursuant to Section 232.102 for at least twelve of the last eighteen months; and
- (c) 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. (emphasis added).

Iowa Code §232.102(6) (1985) provides in part:

The placement shall be terminated and the child returned to the child's home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in Section 232.2(6).

Iowa Code §232.2(6) (1985) provides in part:

- (6) "Child in need of assistance" means an unmarried child:

- (b) Whose parent, guardian, or other custodian has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.
- (c) Who has suffered or is imminently likely to suffer harmful effects as a result of:

- (1) Conditions created by the child's parent, guardian, custodian; or
- (2) The failure of the child's parent, guardian, or custodian to exercise a reasonable degree of care in supervising the child.

C.C. has already been adjudicated a child in need of assistance and has been out of her parents' care for over twelve months. Iowa Code §232.116(5). See In re Interest of Chad, 318 N.W.2d 213, 219 (Iowa 1982).

The juvenile court determined C.C. had been away from her parental home nearly three years and in that time the parents had not yet acquired the skills necessary to acquire custody. We affirm the juvenile court determination that M.C. and D.C. lack the ability to sustain consistent parenting and C.C., if returned to their custody, would suffer as a result of the parents' inability to exercise reasonable care in supervising her.

On our de novo review we therefore conclude there is clear and convincing evidence C.C. cannot be returned to the custody of her parents.

AFFIRMED.