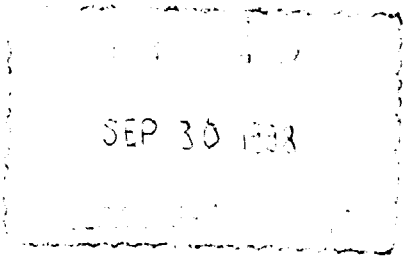
IN THE COURT OF APPEALS OF IOWA

No. 8-509 / 97-2088

IN THE INTEREST OF
M.A., G.A., and J.W., Minor Children,

I.W., Mother,
Appellant,
G.A., Father,
Appellant.



Appeal from the Iowa District Court for Polk County, Constance Cohen, Juvenile Judge.

Mother and father appeal the juvenile court's order terminating their parental rights. **AFFIRMED.**

Michael R. Stowers of Babich, McConnell & Remp, P.C., Des Moines, for appellant-mother.

Marcia L. Schober, Des Moines, for appellant-father.

Thomas J. Miller, Attorney General, Daniel W. Hart, Assistant Attorney General, and Jaki Livingston, Assistant County Attorney, for appellee State.

Mike Bandstra, Des Moines, guardian ad litem for minor children.

Considered by Cady, C.J., and Streit, and Vogel, JJ.

CADY, C.J.

The mother and father appeal the juvenile court's order terminating their parental rights. The father argues the State did not make reasonable efforts to reunite him with his children and termination is not in the children's best interests. The mother argues the court erred in finding the children could not be returned to her care. In addition, the mother contends termination was not in her oldest child's best interests. We affirm.

Ida and Gregory Sr. are the parents of Mary, born in September 1993, and Gregory Jr., (Junior) born in February 1995. Ida is also the mother of Jennifer, born in March 1986.

In April 1996, Jennifer ran to a neighbor's house after Gregory forced her to perform fellatio and attempted to force her to have intercourse with him. Jennifer was removed from the home Ida and Gregory shared and the investigation resulted in a founded report of sexual abuse by Gregory and criminal charges. Although Jennifer had complained to Ida before of being sexually abused by other males, Ida did not believe her until Jennifer was diagnosed with gonorrhea when she was five years old. Jennifer stated Ida was present when Gregory sexually abused her in April 1996. Ida denied being present when Gregory "messed with" Jennifer. Ida married Gregory in July 1996.

In May 1996 Mary and Junior were discovered alone in the home with old, wet diapers, spoiled formula in their bottles, and razors and drug paraphernalia within

reach. Junior had an infected diaper rash. They were removed from their parents' home and a founded report of denial of critical care and lack of supervision by Ida and Gregory resulted.

In August 1996 all three children were adjudicated in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and (6)(d) (1995). The juvenile court continued the children's placement in foster care.

In April 1997 the State filed a petition for termination of parental rights. Following hearings in July, August, and September 1997 the juvenile court terminated Ida's parental rights to Jennifer pursuant to Iowa Code sections 232.116(1)(c) and 232.116(1)(e), and to Mary and Junior pursuant to sections 232.116(1)(c) and 232.116(1)(g). The court terminated Gregory's parental rights to Mary and Junior pursuant to sections 232.116(1)(c), (d), and (g).

The juvenile court found the State made reasonable efforts to reunite the family. It noted DHS provided Ida with supervised visitation, referred her to programs for her substance abuse and parenting problems, and sent her to the InterFamily Sex Abuse Protection (IFSAP) program for group and individual therapy. DHS also referred Gregory to a substance abuse treatment program and IFSAP.

We review termination proceedings de novo -- we review the facts as well as the law and adjudicate the parents' rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the findings of the juvenile court, particularly with respect to the credibility of witnesses, but they are not binding. *In re L.L.*, 459

N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7).

Our primary concern in a termination proceeding is the best interests of the children. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995). Those best interests are determined by looking at the children's long-range as well as immediate interests. We considers what the future likely holds for the children if they are returned to their parents. Insight for that determination may be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing. *In re L.L.*, 459 N.W.2d at 493; *Dameron*, 306 N.W.2d at 745; *In re T.T.*, 541 N.W.2d 552, 555 (Iowa App. 1995). Case history records are entitled to much probative force when a parent's record is being examined. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993).

Ida first argues termination of her parental rights to Jennifer is not in Jennifer's best interests because of the bond between mother and daughter and Jennifer's desire to maintain their relationship. We disagree. Iowa Code section 232.116(3)(c) permits the court not to terminate a parent's rights when grounds exist if "[t]here is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship." The record demonstrates a relationship between Ida and Jennifer. We find it to be a peer relationship, not a parent-child relationship. Jennifer demonstrates a parental interest in knowing her

mother is safe and well. The juvenile court explored ways Jennifer could receive such information about her mother after the termination.

Ida also claims Jennifer objects to the termination. *See* Iowa Code section 232.116(3)(b).[1] We disagree, finding Ida overstates the record. We do not find any objection by Jennifer in the record. At most we find expressions of concern and interest in knowing Ida is safe and well.

Ida further contends the State failed to show the children could not be returned to her care. A child cannot be returned to the parental home if the definitional grounds of a "child in need of assistance" still exist. *See In re A.B.*, 554 N.W.2d 291, 294 (Iowa App. 1996). It is not necessary for the original grounds for removal to exist. If any of the grounds listed in section 232.2(6) can be proven by clear and convincing evidence, there is sufficient basis for termination. *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d at 277. We find clear and convincing evidence in the record Ida is unable to supervise and care for her children adequately.[2] She maintains her relationship with Gregory, a convicted sex abuser. She also is unable to overcome her substance abuse problems, as demonstrated by her

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[1] The court need not terminate a parent's rights if . . .
b. The child is over ten years of age and objects to the termination.

[2] Iowa Code section 232.2(6)(c)(2).

continued failure to pass drug screens.[3] We find the children cannot safely be returned to Ida's custody and care.

Gregory asserts he was not offered reasonable services aimed at reunification. *See* Iowa Code section 232.102(9).[4] He claims, among other things, he was discharged from IFSAP for allegedly suspect reasons. We find Gregory's incarcerations and his own actions interrupted services. Concerning IFSAP, Gregory lied about his violent past at intake, he missed three of five individual sessions, disappeared for two months, showed up for one session with a 0.2 blood alcohol level. He failed to follow recommendations concerning substance abuse treatment, failed to participate in his own treatment, and displayed a general lack of motivation.

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[3] Iowa Code section 232.2(6)(n).

[4] Iowa Code section 232.102(9) provides:

9. a. As used in this section, "reasonable efforts" means the efforts made to prevent or eliminate the need for removal of a child from the child's home. Reasonable efforts may include intensive family preservation services or family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

(1) The type, duration, and intensity of services or support offered or provided to the child and the child's family. If intensive family preservation services were not provided, the court record shall enumerate the reasons the services were not provided, including but not limited to whether the services were not available, not accepted by the child's family, judged to be unable to protect the child and the child's family during the time the services would have been provided, judged to be unlikely to be successful in resolving the problems which would lead to removal of the child, or other services were found to be more appropriate.

(2) The relative risk to the child of remaining in the child's home versus removal of the child.

We find his claim there is evidence of "Machevelian[5] [sic] proportions" the State orchestrated a scenario wherein "the struggling parent, on the verge of success, 'suddenly' becomes a bad person" to be without merit. We also find the services offered were reasonable and aimed at reunification.

Gregory also maintains termination of his parental rights is not in the children's best interests. We disagree. Gregory sexually abused his stepdaughter. His violent history and substance abuse endanger Mary and Junior. The State has a duty to see every child within its borders receives proper care and treatment and must intercede when parents abdicate that responsibility. *In re I.L.G.R.*, 433 N.W.2d 681, 689 (Iowa 1988). At a minimum, this care includes proper food, clothing, discipline, and supervision. "Every child deserves a safe, healthy, and stimulating environment in which to grow and mature." *In re J.W.D.*, 456 N.W.2d 214, 217 (Iowa 1990). Gregory cannot provide such an environment. "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). "Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable." *In re L.L.*, 459 N.W.2d at 495. Mary and Junior have waited long enough and deserve stability and permanency.

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[5] Niccolò Machiavelli was a 16th century Florentine statesman who is known for achieving and maintaining power by devious and unprincipled means.

We note the guardian ad litem filed briefs urging the juvenile court's termination order be affirmed. For the reasons set forth above, we affirm the termination of Ida's parental rights to Jennifer, Mary, and Junior, and the termination of Gregory's parental rights to Mary and Gregory, Jr.

AFFIRMED.