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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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IN THE INTEREST OF T.M., A Child.	)	
D.M., Natural Mother,	)	8-529 / 88-666
Appellant.	)	

Appeal from the Iowa District Court for Linn County (No. JT 701-1287), Sylvia Lewis, Juvenile Referee.

The mother appeals from the juvenile court's order terminating her parental rights. **AFFIRMED.**

Mary K. Hoefer of Mears, Zimmerman & Mears, Iowa City, for appellant mother.

Thomas J. Miller, Attorney General; Charles K. Phillips, Assistant Attorney General; and Robert A. Kimm, Assistant Linn County Attorney, for appellee State.

Deborah L. Leonard, Cedar Rapids, guardian ad litem for the child.

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

DONIELSON, J.

The mother (D.M.) of a child appeals from the juvenile court's order terminating her parental rights. She challenges the sufficiency of the evidence to establish that the child cannot be returned to her custody. She also contends that due to the alleged insufficiency of the evidence, the termination denied her substantive due process. In addition, she contends her procedural due process rights were denied because the termination petition did not specify how the child would suffer harm or need assistance if returned to her custody. Finally, she contends that a statutory subsection stating a ground for a CHINA adjudication is void for vagueness; the State concedes that the subsection is unconstitutional, but denies that the subsection was relied upon in the present case.

The child in question is a girl (T.M.) born in June 1982. Her parents were never married to each other, and her father, who played little role in his daughter's life, consented to the termination of his parental rights. T.M. was adjudicated to be a child in need of assistance immediately after her birth and was placed in foster care. This was apparently done because of the mother's previous difficulties in raising an older child. T.M. lived in foster care until early 1984, when she was about one and one-half years old, when she was placed back in her mother's care, subject to supervision.

T.M. remained in the mother's care until August 1986, except for one foster care placement of five days. However, in August 1986, the child was placed in foster care on an emergency basis after a call from the police. The child had allegedly been struck by a baby-sitter in a public park, although a subsequent medical exam showed no signs of physical abuse. Also, at about the same time the mother requested foster care because she planned to enter the National Guard and would be unable to care for the child. However, the mother later dropped these plans.

In September 1986, the child was once again adjudicated to be a child in need of assistance. She has remained in foster care since that time.

Our review of proceedings to terminate a parent-child relationship is de novo. In Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981). We accord weight to the fact findings of the juvenile court, especially when considering the credibility of the witnesses the court has heard and observed first hand, but we are not bound by them. Id.

The first issue raised by the mother is the sufficiency of the evidence to support termination of her parental rights. The district court terminated D.M.'s parental rights under Iowa Code section 232.116(e) (1987). There is no dispute that T.M. was adjudicated a child in need of assistance and had been placed out of the home for the required time. Thus, the only issue under the statute is

whether there is clear and convincing evidence the child cannot be returned to the custody of the child's parent as provided in Iowa Code section 232.102.

Our examination of the record is to be guided by several established principles. Central to a determination of this nature are the best interests of the child. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981). In this connection, we look to the child's long-range as well as immediate interests. Id. Hence we consider what the future likely holds for the child if returned to her parents. Insight for this determination can be gained from evidence of the parent's past performance as it may be indicative of the quality of the future care that a parent is capable of providing. Id.

T.M. has been adjudicated a child in need of assistance on two occasions. The first adjudication resulted in a December 1983 case plan requiring that D.M. provide a stable residence, improve the parenting techniques, and provide proper child care in her absence. These areas continue to be problems today.

The second adjudication occurred in September 1986 after D.M. announced her plans to join the National Guard. T.M. found herself again in foster care after temporary placement with relatives did not work out. On April 9, 1987, a review hearing was held to see if T.M. could be returned home. At this time D.M.'s plans were to marry the

individual with whom she was living. These plans never materialized. D.M. moved twice more before ending up in a sleeping room that is not adequate for T.M. Another boyfriend and his son frequent this room. D.M. has not provided T.M. with a stable environment.

D.M. also has a history of psychiatric treatment. She was a ward of the State herself from age three and one-half until adulthood. In 1977, she was diagnosed as schizophrenic, chronic undifferentiated type, narcissistic personality with adjustment disorders. In 1988 she was diagnosed as: Borderline Intellectual functioning; history of major depression, recurrent, in remission; probable mixed personality disorder with asocial, antisocial, and narcissistic features; history of one functioning lung. Another evaluation stated D.M. was dissocial instead of asocial and said that she had a personality disorder, nonspecified, and a low frustration tolerance.

D.M.'s condition is particularly relevant to her ability to properly parent T.M., who has been diagnosed as suffering from an inherited condition known as Attention Deficit Disorder. A child with this disorder has special needs for stability and consistency and structure. A high frustration tolerance, patience, and good control are all needed to care for an attention deficit disordered child according to the evidence presented.

Observations of D.M. showed she lacks patience with T.M. She often ignores her or if she gives attention, it is negative and argumentative. D.M. has not been reliable in her visits to T.M. and has requested no visits on weekends because they interfere with her social life.

Our review of this record shows by clear and convincing evidence T.M. cannot be returned to her mother without suffering the harms outlined in Iowa Code section 232.2(6). As the trial court found, T.M., then aged five and one-half, is in need of a permanent, stable home. She needs mature and patient parents. D.M. has not been able to provide a stable home or mature parenting for T.M. Specifically, T.M. has suffered or is imminently likely to suffer harmful effects as a result of the failure of D.M. to exercise a reasonable degree of care in supervising the child. Id. Iowa Code § 232.2(6)(c)(2) (1987). This mother has also failed to provide adequate shelter. Id., § 232.2(6)(g).

Furthermore, it is in T.M.'s best interests that D.M.'s parental rights be terminated. D.M. has been provided with many services, but is still not capable of properly caring for T.M. A child should not be forced to endlessly suffer the parentless limbo of foster care. Long v. Long, 255 N.W.2d 140, 146 (Iowa 1977). T.M. need not continue to wait for her mother to mature and finally settle down in adequate housing. In Interest of T.D.C., 336 N.W.2d 738, 744 (Iowa 1983).

Having relied on Iowa Code sections 232.2(6)(e)(2) and (g), we do not need to address D.M.'s contention that section 232.2(6)(c)(1) is void for vagueness. It is sufficient that we base termination on statutory grounds even if they are different from those relied upon for the original adjudication. In Interest of A.M.S., 419 N.W.2d 723, 725 (Iowa 1988).

We also find no merit in D.M.'s claim that termination violates her substantive due process rights. We have consistently held that the child's welfare is our paramount consideration and this does not deprive the parent of due process. In Interest of Vanderbeek, 231 N.W.2d 859, 862 (Iowa 1975). Termination in this case is based on T.M.'s best interests, not on D.M.'s frequent residence and job changes. It is D.M.'s failure to adequately provide quality supervision and shelter to T.M., not just the number of changes that T.M. has endured, that supports termination for T.M.'s long-range best interests.

Finally, D.M. has not been denied procedural due process either. Where a petition and the proceedings leave the parent with no doubt as to where her faults lie, due process has not been denied. Long v. Long, 255 N.W.2d 140, 145 (Iowa 1979). Here, D.M. was notified in both the child in need of assistance proceedings that T.M. needed a stable home. The first case plan indicated D.M. should work to provide a stable residence, improve parenting techniques,

and to provide proper child care when D.M. was not available. The second case plan again emphasized the need for a permanent home. D.M. was also provided with many services to improve her parenting. D.M. was provided with sufficient information on where her faults lie to provide notice in accordance with procedural due process.

Finding sufficient evidence in the record to support termination and no constitutional violations, we affirm the decision of the district court.

AFFIRMED.