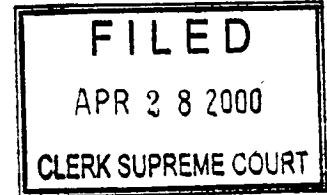


IN THE COURT OF APPEALS OF IOWA

No. 0-133 / 99-1406
Filed April 28, 2000

**IN THE INTEREST OF
V.G. and M.G.,
Minor Children,**

**T.G., Mother,
Appellant.**



Appeal from the Iowa District Court for Polk County, Karla J. Fultz,
Juvenile Court Judge.

Mother appeals the court's order terminating her parental rights to her two
children. **AFFIRMED.**

Michael Oliver, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, and Jennifer Navis, Assistant County Attorney, for appellee-State.

Nichole Garbis Nolan, Youth Law Center, Des Moines, guardian ad litem
for minor children.

Considered by Vogel, P.J., and Mahan and Miller, JJ.

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VOGEL, P.J.

Tammy appeals the court's order terminating her parental rights to her two children. Because we find there was clear and convincing evidence and it was in the children's best interests to terminate parental rights, we affirm.

Background facts. Tammy is the natural mother of two children; Victoria (Tori), born October 16, 1993, and Michael, born July 31, 1996. These children were adjudicated to be children in need of assistance on April 14, 1998, due to Tammy's drug use and failure to provide critical care to the children. There were founded allegations that Tori was found wandering the trailer park, where they lived, on many occasions. When returned to her home by police officers or neighbors, Tammy was often unaware that Tori had even left the trailer. Tammy experienced serious problems parenting the children, including an inability to properly supervise the children with dangerous consequences such as Tori starting fires in the trailer. There were two reported incidents of Tori, at three years of age, making her way up onto the roof of the house and refusing to come down for Tammy. Rather than going up to retrieve her, Tammy let her remain on the roof until someone else told her to come down. Upon removal for these and other safety concerns, the children were placed with relatives. After one and a half years and numerous services offered to Tammy, termination of parental rights was ordered. Tammy appeals.

Scope of Review. We review proceedings to terminate parental rights de novo – we review the facts as well as the law and adjudicate 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 are not bound by them. *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).

Proof by clear and convincing evidence of any one of the types of harm in Iowa Code section 232.2(6) is sufficient to support termination. See *In re K.L.C.*, 372 N.W.2d 223, 228 (Iowa 1985). In addition, the court must only find that any one of the alleged definitional grounds of a child in need of assistance in Iowa Code section 232.2(6) exist at the time of the termination hearing. See *id.*; Iowa Code § 232.102(3)(b). Even if the statutory requirements for termination are met, the decision to terminate must still be in the best interest of the children. *In re N.H.*, 383 N.W.2d 570, 574 (Iowa 1986); *In re D.W.K.*, 365 N.W.2d 32, 34-35 (Iowa 1985). The best interests of the child are paramount considerations in determining whether to terminate parental rights. *L.L.*, 459 N.W.2d at 493; *N.H.*, 383 N.W.2d at 574.

Tammy's chronic substance abuse. Tammy argues that because the State failed to present clear and convincing evidence, the trial court was unable to find she has a "severe, chronic substance abuse problem" which presents a danger to her or her children and that her prognosis for recovery is poor. She claims she has sought help by placing her name on a waiting list for appropriate housing and drug treatment and has obtained counseling, both individual and group oriented. Iowa Code section 232.116(1)(k) requires us to evaluate Tammy's prognosis for recovery as well.

Tammy's substance abuse addiction remains a severe obstacle in her ability to manage her children. Although Tammy has made the effort to place her name on a waiting list for additional treatment, this action does not indicate whether she will be successful in her completion of a substance abuse treatment program. Unfortunately, her past record of voluntarily leaving one treatment program after one day and another before completion more accurately reflects the odds Tammy will have in being successful if and when she enters any additional treatment programs. Her progress is further hindered by her pattern of denying drug use, only to have positive results from subsequent urinalysis tests for illegal narcotics. Tammy's denial of her substance abuse problem has prevented her from obtaining the help necessary to allow her to overcome her addiction and learn to properly supervise and parent her children. We find Tammy has a severe and chronic substance abuse problem with a poor prognosis for recovery.

Children cannot be returned to home. Tammy objects to the trial court's finding that the children cannot be returned to her custody, pursuant to Iowa Code sections 232.116(1)(e) and (g). Tammy alleges she is a good mother and, as such, the state should reunite her with her children. *See In re J.R.*, 478 N.W.2d 409 (Iowa App. 1991). The adjudicatory harm under which the children were removed from Tammy's care was her inability to safely and appropriately supervise her children due to her drug use. Before their removal from the home, the children were found in several dangerous situations of which Tammy was not even aware. Without addressing and overcoming her drug addiction, her ability

to supervise her children is not likely to have improved. We must consider what the future likely holds for the child if returned to his or her parents. *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989). We gain insight into the child's prospects by reviewing evidence of the parent's past performance, for it may be indicative of the parent's future capabilities. *Id.* Unfortunately, Tammy has not demonstrated to the court that her ability to care for her children has changed during their removal period. She has not addressed her drug addiction or changed her lifestyle to allow her to provide the necessary care for her children.

Adequate services. Iowa Code section 232.116(1)(c) requires DHS to offer parents adequate services to correct the problems which led to the CINA adjudication. DHS established a case plan offering Tammy reunification services including substance abuse evaluation and treatment, psychosocial evaluation, therapy, urinalysis testing to screen for drug use, visitation and parenting classes. Despite the services offered, Tammy alleges DHS failed to offer her enough or the appropriate services. However, the record fails to indicate that Tammy challenged that reasonable efforts had been utilized or made requests for specific services in any proceeding prior to the termination hearing. *See In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). While the State had the obligation to make reasonable efforts by providing adequate reunification services, the parents have a responsibility to demand services prior to the termination hearing. *In re C.D.*, 508 N.W.2d 97, 101 (Iowa App. 1993). Challenges to the plan for reunification should have come when the plan was entered. *Id.* Therefore, Tammy has failed to preserve error as to this issue.

Best interests of the children. Tammy finally claims terminating her parental rights is not in the best interests of Tori and Michael because they share an obvious bond. However, these children have now been out of the home for a substantial period of time. Clearly, they cannot be returned to Tammy's care at this time. Tori and Michael are doing well in the care of their uncle and aunt. They are adequately cared for and supervised and are making significant behavioral progress. Tori has spoken to her therapist regarding her anxiety about what her future holds. Although Michael is still too young to voice his concerns, both of these children need the stability their mother has been unable to provide for them. The legislature has determined the interval for which patience with parents may last. See Iowa Code § 232.116(1). "This period must reasonably be limited because patience on behalf of the parent can quickly translate into intolerable hardship for the children." *In re R.J.*, 436 N.W.2d 630, 636 (Iowa 1989). A child should not be forced to endlessly await the maturity of a natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). Therefore, we find termination of Tammy's parental rights is in the best interests of Tori and Michael.

Having reviewed the record before us, we find there was clear and convincing evidence to terminate Tammy's parental rights. We also find it was in the children's best interests to do so. Having considered all other issues properly raised on appeal, we affirm.

AFFIRMED.

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