IN THE COURT OF APPEALS OF IOWA

No. 1-158 / 90-1662

FILED
APR 23 1991
CLERK SUPREME COURT

IN THE INTEREST OF V.L.M., A CHILD,

A.M., Mother,

Appellant.

Appeal from the Iowa District Court for Polk County, Larry J. Eisenhauer, Judge.

A mother appeals the termination of her parental rights. **AFFIRMED.**

Richard B. Campbell, Des Moines, for appellant mother.

Bonnie J. Campbell, Attorney General, Gordon E. Allen, Deputy Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee State.

Considered by Oxberger, C.J., and Hayden and Habhab, JJ.

OXBERGER, C.J.

A.M. is the mother of V.L.M. V.L.M. is a girl born August 14, 1989. Her parents have never been married to each other.

At birth, the daughter tested positive for cocaine in her blood. August 17, 1989, she was removed from her mother's custody by the Department of Human Services (DHS) and placed in foster care. The daughter never returned to her mother's care.

September 27, 1989, the daughter was adjudicated a child in need of assistance. In June 1990, the State filed a petition to terminate the parental rights of both of the daughter's parents. DHS subsequently determined the daughter's father and his wife might be suitable custodians for her, and in September 1990, placed her in their home. The State then moved to dismiss its termination petition as to the father and the juvenile court granted the motion. The daughter's father's wife reportedly desires to adopt the child.

The termination proceeding continued as to the mother. Evidence at the October 18, 1990, termination hearing showed the mother continues to have substance abuse problems and an unstable life and she had not visited the child since May 25, 1990.

Relying on Iowa Code section 232.116(1)(g)(1991), the juvenile court terminated A.M.'s parental rights with respect to the daughter. Section 232.116(1)(g) permits

termination of parental rights if a child is three years of age or younger, has been adjudicated CINA, has been placed outside the parent's home for six of the last twelve months, and cannot safely be returned to the parent's care.

The mother has appealed the order terminating her parental rights. She concedes she is presently unable to parent the daughter but argues placement of the child with the father eliminates the need to terminate her own parental rights. The mother asserts the daughter will suffer no harm if a limited noncustodial relationship is allowed to continue. She cites Iowa Code section 232.116(3)(a)(1991), which provides the juvenile court may avoid an otherwise warranted termination if "a relative has legal custody of the child." The State responds that the mother failed to pursue even a limited relationship with the child prior to termination, and visitation or other contact with the mother is contrary to the child's best interests.

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984), cert. denied, 469 U.S. 1222, 105 S. Ct. 1212, 84 L. Ed. 2d 353 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but are not bound by them. Id. at 491-92.

The primary concern in termination proceedings is the best interest of the child. Iowa R. App. P. 14(f)(15); In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

> 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) (citing to Dameron, 306 N.W.2d at 745); see also In re A.C., 415 N.W.2d 609, 613 (Iowa 1987).

The juvenile court found the child's best interests would be served by terminating her mother's parental rights so she could have the stable home offered by her father and stepmother. We agree. The mother, while offered services from the State for at least the last twelve years, has failed to make any significant changes in her life. She has three other children who are no longer in her custody because she was unable to care for them due to her drug and alcohol addiction and she was pregnant at the time of the termination hearing.

The mother argues she should be given another chance to take on some of the responsibilities of parenthood such as financial support as well as being allowed reasonable visitation rights. She then concedes if she fails to pay the court ordered support or abandons the daughter, the father would be free to petition the court for termination of her parental rights under Iowa Code Chapter 600A which involves adoption. As we have frequently said before, this

child should not be forced to endlessly await the maturity of her mother. In re T.D.C., 336 N.W.2d 738, 744 (Iowa 1983).

Iowa Code section 232.116(3)(a)(1991), provides that "[t]he court need not terminate the relationship between parent and child" if the child is in the custody of a relative. The permissive language of this section places the decision not to terminate parental rights within the discretion of the court. We agree with the juvenile court that in this instance it is in the daughter's best interest to sever her ties from her biological mother. We see nothing to be gained by forcing the daughter to await further juvenile proceedings before allowing the focus of her future to be becoming part of a stable family. We find this decision especially appropriate in light of the child's special needs resulting from her exposure to cocaine prior to her birth.

AFFIRMED.