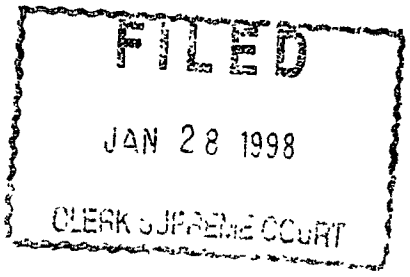
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IN THE COURT OF APPEALS OF IOWA



No. 7-722 / 97-1295
Filed January 28, 1998

IN THE INTEREST OF D.E.C.,
Minor Child,

C.C., Mother,
Appellant.

Appeal from the Iowa District Court for Warren County, Thomas W. Mott, District Associate Judge.

Mother appeals from juvenile court order terminating her parental rights under Iowa Code section 232.116(1)(g) (1997). **AFFIRMED.**

Kermit L. Dunahoo and Jeffrey T. Mains of Dunahoo Law Firm, Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee-State.

Robert L. Stuyvesant of Stuyvesant & Benton, Carlisle, guardian ad litem for minor child.

Considered by Cady, C.J., and Sackett and Huitink, JJ.

HUITINK, J.

In this case the mother, Cheryl, appeals the juvenile court's order terminating her parental rights to her two-year-old daughter, Danyelle.

The Department of Human Services (DHS) intervened in Cheryl's family after Danyelle sustained fractured ribs as the result of physical abuse in September 1994. Cheryl denied abusing Danyelle and neither police or DHS investigators were able to identify the person responsible for Danyelle's injuries. All three of Cheryl's children were removed and placed in temporary foster care.

Danyelle's uncontested adjudication as a child in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(b)[1] occurred on January 12, 1995. The adjudication order continued Danyelle's placement in temporary foster care pending dispositional hearing. Cheryl was ordered to complete a parenting evaluation and granted supervised visitation with Danyelle. At the May 4, 1995, dispositional hearing, Danyelle's placement in foster care was continued. Cheryl's two older daughters were returned to her custody.

The services provided Cheryl by the dispositional order included the Parent-Infant Nurturing Center Program, assertiveness training, and counseling. Cheryl's supervised visits with Danyelle were also extended.

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[1] Iowa Code section 232.2(6)(b) defines a child in need of assistance as one "whose parent, guardian, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child."

From May 1995 until termination proceedings were initiated, Cheryl was provided with a variety of services intended to remediate the circumstances resulting in Danyelle's adjudication. In January 1997, the department proposed a five-part plan for reunification of Cheryl's family. Under this proposal Cheryl would retain custody of the two older children and the State could not seek termination of Cheryl's parental rights concerning Danyelle. These conditions included:

1. Good faith effort toward new housing.
2. Good faith effort for Cheryl's employment.
3. Obtaining sufficient transportation.
4. Improving Cathlene's school attendance.
5. Having regular supervised and unsupervised visitation with Danyelle.

In February 1997 the department sought removal of the two older girls because Cheryl failed to satisfactorily comply with the foregoing conditions. On March 6, 1997, they were removed and on March 27, 1997, the juvenile court ordered the commencement of termination proceedings concerning Danyelle.

The juvenile court's termination order included the following findings of fact:

> Cheryl says that she wishes to retain her parental rights. But she has spent the past two and a half years, nearly all of Danyelle's life, gratifying her own wants at the expense of her daughter. She has lived from place to temporary place with successive boyfriends. She currently resides with a boyfriend and his mother in the latter's mobile home in Des Moines. Prior homes included Cheryl's mother's rural home shared with the mother's boyfriend, Cheryl's own boyfriend, Cheryl's 16 year old sister and that sister's boyfriend, Cheryl's four brothers, and later on a fifth brother, age 28. One of Cheryl's mother's former boyfriends sired one of Cheryl's daughters.
>
> Cheryl has missed eighteen scheduled weekly visitations . . . some after they were confirmed the day before. . . . Cheryl could have

had more frequent visits for the asking. She never expressed any desire to have more visiting time or more frequent visits.

Cheryl testified she needs and wants parenting classes. But she failed to complete recommended individual therapy within the time available to do so. She receives some in home services currently from Max Davis, whom Cheryl called as a witness to counter the testimony in support of termination of parental rights. Max Davis testified that Cheryl needs intensive personal therapy for her own problems, and in home services to learn to properly parent. As she did for scheduled visitations with Danyelle, Cheryl missed scheduled meetings with Max Davis at her own home for therapy. From her behavior, Mr. Davis inferred that Cheryl did not want any more therapy.

The juvenile court concluded Danyelle could not be returned to Cheryl and terminated Cheryl's parental rights pursuant to Iowa Code section 232.116(g).[2]

Cheryl appeals, arguing DHS did not provide reasonable services to preserve her relationship with Danyelle. She submits the permanency plan was fundamentally flawed and set her up for failure. Cheryl also asserts it is not in Danyelle's best interests that her parental rights be terminated.

Our review is de novo. Iowa R. App. P. 4; *In re M.L.O.*, 477 N.W.2d 393, 394 (Iowa 1991). Iowa's parental termination statutes are preventative as well as

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[2] Iowa Code section 232.116(g) provides:

The court finds that all of the following have occurred:

(1) The child is three years of age or younger.

(2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) 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 at the present time.

remedial. *In re E.B.L.*, 501 N.W.2d 547, 549 (Iowa 1993). The State may intercede but must be "protecting wherever possible the integrity of the family unit." *In re I.L.G.R.*, 433 N.W.2d 681, 689 (Iowa 1988). The statutes are designed to prevent probable harm to a child. *In re E.B.L.*, 501 N.W.2d at 549. The foremost consideration in parental termination proceedings is the best interests of the child. Iowa R. App. P. 14(f)(15).

In seeking those best interests, we look to the child's long-range as well as immediate interests. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990). This requires considering what the future holds for the child if returned to the parent. *Id.* at 493-94. When making this decision, we look to the parents' past performance because it may indicate the quality of care the parent is capable of providing in the future. *Id.* at 494.

The State has a duty to see that every child within its borders receives proper care and treatment. *In re J.W.D.*, 456 N.W.2d 214, 217 (Iowa 1990). This includes at a minimum proper food, clothing, discipline, and supervision because "[e]very child deserves a safe, healthy and stimulating environment in which to grow and mature." *Id.* The State must make reasonable efforts to reunite a parent and child before terminating parental rights. *In re T.C.*, 522 N.W.2d 106, 108 (Iowa App. 1994); *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). Acknowledgment of a natural parent's rights appears in Iowa Code section 232.102(8) which provides the placement of a child elsewhere shall be terminated and the child returned home if "the court finds by a preponderance of the evidence the child will not suffer harm in the

manner specified in section 232.2, subsection 6." Criteria to be considered in determining whether a child should be removed from the home are also applied in determining whether the child may be returned safely to the home. *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990).

We find the State has met its burden of proving by clear and convincing evidence Danyelle cannot safely be returned to Cheryl's care. Iowa Code § 232.116(1)(g). Cheryl's housing situation has changed several times. We do not find Cheryl has provided a safe, secure home for Danyelle. Her lack of ability to care for and provide for Danyelle's two older sisters also persuades us Danyelle cannot safely be returned to Cheryl's care. The State demonstrated it is in Danyelle's best interests for Cheryl's parental rights to be terminated. We find the State provided reasonable services and made reasonable attempts to preserve and reunite the family. Cheryl has had more than ample time and resources to make the required changes. Danyelle's foster parents are willing to adopt her. They are also currently caring for her older sibling, Cathlene. Danyelle's best interests will be served by terminating Cheryl's parental rights.

AFFIRMED.