FILED
AUG 27 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF B.K.E., R.R.E., M.P.E., and A.M.E., Children;	)	Filed August 27, 1986
L.M.E., Mother,	)	6-205 85-1674 80
Appellant.	)	

Appeal from the Iowa District Court for Scott County (No. 4561-0284) - John A. Nahra, District Associate Judge.

The natural mother of four children appeals the juvenile court order terminating her parental rights pursuant to Iowa Code section 232.116(5) (1983). **AFFIRMED.**

John G. Mullen, Davenport, for appellant.

Thomas J. Miller, Attorney General; Gordon E. Allen, Special Assistant Attorney General; Charles K. Phillips, Assistant Attorney General; and William E. Davis, County Attorney, for appellee.

Considered by Donielson, P.J., and Schegel and Sackett, JJ.

SCHLEGEL, J. 81

The natural mother of four children appeals the juvenile court order terminating her parental rights pursuant to Iowa Code section 232.116(5) (1983). The natural mother asserts that there was not sufficient evidence that the children could not be returned to her. We affirm.

In February 1984, a petition was filed for termination of the parental rights of L.E. and R.E. with respect to their four children, B.K.E., R.R.E., M.P.E., and A.M.E. The petition was based on Iowa Code section 232.116(5) and alleged that the four children had been adjudicated children in need of assistance in May 1981, that their custody had been transferred from their parents for at least twelve months, and that they could not be returned there.

After a trial in July 1984, the juvenile court granted the petition as to the father, terminating his parental rights with respect to the four children. The court continued the matter as to the mother for six months, giving L.M.E. a set of guidelines to follow. It later continued the matter for nine more months. Trial was held in September and October 1985 regarding M.P.E. and A.M.E. The juvenile court granted the petition, terminating the mother's parental rights with respect to M.P.E. and A.M.E. The mother appeals from this termination.

The issue presented to us is whether there is clear and convincing evidence that M.P.E. and A.M.E. could not be returned home. Our review is de novo. We give weight to the findings of the juvenile court, but we are not bound by them. Iowa R. App. P. 14(b)(7). In the Interest of Dameron, 306 N.W.2d 743, 745 (1981). Iowa Code section 232.116(5)(a)-(c) (1985) provides that in order to obtain a termination of parental rights the State must show:

a. The child has been adjudicated a child in need of assistance pursuant to section 232.96; and

b. The custody of the child has been transferred from the child's parents for placement pursuant to section

232.102 for at least twelve of the last eighteen months; and

c. 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.

In child custody cases, the first and governing consideration of the court is the best interests of the child. Iowa R. App. P. 14(f)(15); In re Marriage of Winter, 223 N.W.2d 165, 167 (Iowa 1974). The only issue in this case is whether there is clear and convincing evidence that the children cannot be returned to the natural mother. See In Re Interest of Chad, 318 N.W.2d 213, 214 (Iowa 1982).

The record reveals, through the testimony of the social workers, investigators, and health professionals, that the best interests of the children would be to terminate the natural mother's parental rights. The history of abuse, the instability of the mother, the progress of the children away from the mother, and the fear of the children of the mother conclusively indicate that the children's interest would be best served by terminating the mother's parental rights over them. It is difficult to argue with appellant's own counsel who states, "As these persons [foster parents, doctors, psychologists, teachers, and social workers] became aware of the performance of the children in foster care and compared that with the life style and capabilities of the mother, the best interests of the children colored the conclusions drawn by that witness [sic]." The record created by the State also shows by clear and convincing evidence that the children cannot be returned to the custody of the mother.

The trial court's decision is affirmed.

AFFIRMED.