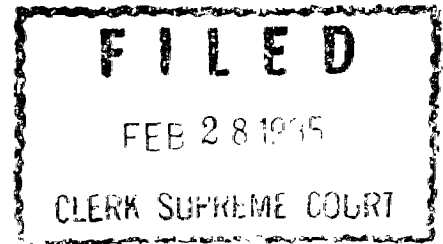


IN THE COURT OF APPEALS OF IOWA

No. 5-065 / 94-1547



IN THE INTEREST OF C.S.D., Minor Child,
P.M., Mother,
Appellant.

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Appeal from the Iowa District Court for Wayne County,
Darrell J. Goodhue, Judge.

Mother appeals from a district court order terminating
her parental rights to her minor child. **AFFIRMED.**

Kevin S. Maughan of Pabst & Maughan, Albia, for
appellant.

Thomas J. Miller, Attorney General, Gordon E. Allen,
Deputy Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Alan M. Wilson, County Attorney, for
appellee.

Monty W. Franklin, Humeston, guardian ad litem for
minor child.

Heard by Donielson, C.J., and Sackett and Habhab, JJ.

000172

HABHAB, J.

C.D. was born to P.M., the mother, and G.D., the father, on February 11, 1992. P.M. and G.D. did not marry but did frequently cohabit. Only three months after C.D.'s birth, the sheriff was called to their home to investigate allegations by G.D. that P.M. had stabbed him with a steak knife. G.D. was treated and released from a local hospital. In June 1992, the sheriff was again called to investigate an altercation between P.M. and G.D.. Upon the sheriff's arrival, P.M. stated that G.D. had physically abused her by hitting and choking her. She told the sheriff she hit G.D. with a shovel.

The Department of Human Services (DHS) received a child abuse referral on C.D. in July 1992, stating that C.D. had been present during several incidents of child abuse. The report also indicated that C.D. had been burned between her fingers. The report concluded she had been burned when she grabbed G.D.'s cigarette out of his hand. Several months later, another child abuse referral was received by DHS. The report alleged that C.D. was again in the company of her parents while they were drunk and fighting. The report concluded that both parents had denied C.D. proper supervision by engaging in repeated, violent domestic abuse.

A child abuse report was filed against P.M. in October 1992 after she hit G.D. in the head and ribs with a shovel and threatened him with a knife. The sheriff discovered

200875

all of G.D.'s personal effects had been tossed outside and the tires of his jeep slashed. G.D. was found to have cuts on his head and a large bruise on his rib cage. G.D. also told the sheriff P.M. had threatened to kill C.D.

A Child In Need of Assistance (CINA) petition was filed on C.D.'s behalf on November 5, 1992. That same day, the sheriff was again called to the parents' home. While intoxicated, G.D. had taken C.D. to his residence in his car. Upon arriving at G.D.'s home, the sheriff took C.D. into his custody and returned her to P.M.'s custody. P.M. refused any services at that time. Upon refusing services, P.M. stated she loved G.D. and wanted a life with him, even though she recognized the environment was not healthy for C.D.

On December 8, 1992, a hearing was held on the CINA petition. Pursuant to the district court's order, C.D. was to remain in P.M.'s custody, and a no contact order was issued between both P.M. and G.D, and G.D. and the child. On December 24, 1992, C.D. was adjudicated a child in need of assistance.

Between December 1992 and May 1993, P.M. was offered numerous support services. Despite the no contact order, P.M. and G.D. continued their relationship and at one point discussed marriage. P.M. put forth little effort into her counseling sessions. Services from Children and Families of Iowa were discontinued in April 1993 due to P.M.'s failure to make progress and failure to keep appointments.

The sheriff was called on May 25, 1993, to investigate another report of domestic abuse at P.M.'s home. G.D. stated that P.M. had assaulted him by striking him in the leg with a shovel and hitting him in the head with a set of welding gauges. He also reported that P.M. had threatened to kill herself and C.D. When the deputy arrived, P.M. was in her car with C.D. P.M. attempted to escape by backing up at a high rate of speed and ramming the deputy's car while C.D. was still in the car. P.M. resisted arrest violently, kicking and screaming at the deputy. C.D. was placed in voluntary foster care and P.M. was admitted to the Clarinda Mental Health Institute for a thirty-day evaluation. Her discharge paper indicated that P.M.'s judgment and insight were impaired and she had a rigid, uncompromising thought process. P.M. stated she wished to remain with G.D. even though she claimed he beat her two or three times per week.

On June 23, 1993, P.M. signed an agreement for release on her own recognizance on the condition that she would not have any contact with G.D. At the July dispositional hearing, C.D. was again found to be a child in need of assistance. Both P.M. and G.D. continued to ignore the no contact order. New services were commenced in September 1993. The social workers noted that P.M. was unable to terminate her relationship with G.D. and did the opposite of advice given by anyone in authority. On October 6, 1993, P.M. was found guilty of assault and she was

000075

sentenced to thirty days in jail. Near the end of her stay in jail, P.M. was reported to have stated her intention to terminate her relationship with G.D.

In November 1993, P.M. was released from jail. P.M. and G.D. told the social workers they would begin to work real hard at parenting. Both agreed to attend counseling. On November 24, 1993, a supervised visitation between C.D. and her parents had to be canceled because of a domestic dispute between P.M. and G.D. Visitation between P.M. and C.D., however, progressed to being unsupervised for hours at a time. However, in February 1994, G.D. reported that P.M. had stabbed him with a paring knife in his nose. He also told the hospital that he did not believe C.D. was safe if P.M. lost her temper.

The State filed a petition for termination of parental rights on April 29, 1994. Between May and August 1994, DHS obtained further information regarding P.M. In April 1994, P.M. was involved in a fight with her sister in which the windshield of P.M.'s car was broken. In June 1994, a social worker noted that P.M. threatened to slap C.D. if she continued to spit out her food onto her plate. When the social worker told P.M. that this response was inappropriate, P.M. became enraged. In July 1994, P.M. became irate with a social worker and refused to leave her car. Other visits at DHS resulted in violent outbursts.

On June 21, 1994, the Rathbun Mental Health Center submitted a report on P.M.'s personality traits. The

report stated she had significant codependency tendencies and had historically been involved in domestic violence. The report recommended termination of both G.D.'s and P.M.'s parental rights. Following a hearing on August 18, 1994, the district court entered its order terminating P.M.'s and G.D.'s parental rights pursuant to Iowa Code section 232.116(1)(g) (1993). Only P.M. has appealed the termination of her rights.

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984) cert. denied sub nom. J.G. v. Tauke, 469 U.S. 1222 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. Id. at 491-92.

The primary concern in termination proceedings is the best interests 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 Dameron, 306 N.W.2d at 745).

Iowa Code section 232.116(1)(g) (1993) permits the juvenile court to terminate the parent-child relationship if the court finds 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 custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least six 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.

The element in dispute in this case is the fourth element. P.M. asserts there is not clear and convincing evidence the child cannot be returned home at the present time, since the abusive relationship with the father is over. In addition, P.M. asserts there is no evidence to suggest she will become abusive to the child.

We find there is clear and convincing evidence that the child cannot be returned to P.M. Although much of P.M.'s abusive behavior was directed at G.D., he was not the lone recipient. Evidence was produced that social workers frequently were on the receiving end of P.M.'s violent temper. A physical fight with P.M.'s sister was also reported. The confrontation involving P.M. ramming her car into the deputy sheriff's car is further evidence. It is clear to this court that P.M.'s abusive behavior and violent temper has not been solely aimed at G.D. Such a

disposition, even if not aimed at C.D., puts C.D. at risk.

We conclude there was clear and convincing evidence the child cannot be returned to the custody of P.M. We affirm the decision of the district court.

AFFIRMED.