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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF D.W.G., A Child;	)	Filed August 27, 1986
J.M.G., Natural Mother,	)	6-219 85-742 91
Appellant.	)	

Appeal from the Iowa District Court for Keokuk County (No. J 3-107) - Max H. Ruschmeyer, Judge.

The natural mother of a four-year-old boy appeals the juvenile court order terminating her parental rights pursuant to Iowa Code section 232.116(5) (child in need of assistance who has been transferred from parents' custody for at least twelve months cannot be returned there). **AFFIRMED.**

H. Michael Neary of Gerard & Neary, Sigourney, for appellant.

Thomas J. Miller, Attorney General; Gordon E. Allen, Special Assistant Attorney General; Charles K. Phillips, Assistant Attorney General; and John E. Schroeder, Assistant County Attorney, for State of Iowa.

Greg A. Life, Oskaloosa, for the child.

Considered by Donielson, P.J., and Schlegel and Hayden, JJ.

SCHLEGEL, J.

The natural mother of a four-year-old boy appeals the juvenile court order terminating her parental rights pursuant to Iowa Code section 232.116(5). The mother asserts that there was not clear and convincing evidence to justify termination of her parental rights. We affirm the juvenile court's decision.

D.W.G. was born in January 1982 to J.M.G. (wife) and T.R.G. (husband). In October 1982, D.W.G. was adjudicated a child in need of assistance by the juvenile court. The court based its decision on factors such as the mother's arrest in the summer of 1982 on several criminal matters with burglary charges pending against her, the mother's combination of suicide and death threats involving herself and her child on three separate occasions, the mother's outbursts of uncontrolled anger which sometimes led to blackouts, and a substantiated child abuse report filed against the mother. The father had abandoned the family and dissolution proceedings had been brought against him by the mother. The dispositional hearing was held in November 1982. Based on findings that the mother had shown only erratic interest in the child, that the mother's abusive temper continued to be evidenced, and that the mother had adopted a transient life-style, the court decreed D.W.G. was to remain in foster care. In March 1983, D.W.G. was returned to his mother after a review hearing's findings that J.M.G. was living at home, was employed, and had disavowed her intentions of moving in with male friends. In May 1983, the child was again removed. The Department of Human Services took this action pursuant to an incident at J.M.G.'s mother's house. J.M.G. had beaten her mother and then threatened suicide. Commitment proceedings were brought against J.M.G. by her parents, but the petition for commitment was not granted. In June 1983 the juvenile court affirmed the placement of the child in foster care.

J.M.G. underwent a ten-day evaluation in a mental health unit in May 1983. In July 1983, she assaulted her father. Her parents pressed charges and J.M.G. served two weeks in jail and her parole was revoked. In October 1983, J.M.G. entered prison due to her parole revocation. She was released in April 1984. A review hearing in April 1984 found that J.M.G.'s employment failures, bad temper, and suicidal threats were sufficient to keep D.W.G. in foster care. At a review hearing in August 1984, the court again found J.M.G.'s transient life-style, failure to attend parenting classes, failure to keep a job, further legal difficulties, and living arrangements with a man with an extensive criminal record prevented the return of D.W.G. to her. In October 1984, J.M.G. was arrested on two counts of false use of a financial instrument. The conclusion of the social worker at this time was that J.M.G. "was fully aware of the consequences of her criminal actions. It appears that the welfare of her child is not her foremost concern." At this time the Department of Human Services recommended termination of parental rights.

In January 1985, the State of Iowa petitioned to terminate J.M.G.'s parental rights pursuant to Iowa Code section 232.116(5) and to terminate T.R.G.'s parental rights pursuant to that section and Iowa Code section 232.116(2) (abandonment). Evidence was presented at trial that D.W.G. had spent only 12 of his 37 months with his mother, that J.M.G. had a history of stealing purses from cars, and that in prison J.M.G. had made further suicide threats and had received a major disciplinary report for disruptive conduct. The juvenile court granted the State's petition and terminated J.M.G.'s and T.R.G.'s parental rights. The court said that D.W.G. could not be returned to J.M.G. The court found the following dangers to be likely: neglect of the child's safety, the possibility of bodily harm inflicted by J.M.G., the absence of a safe and stable home environment, and

emotional abuse as a consequence of J.M.G.'s failure to improve her assaultive behavior or explosive personality.

A review hearing was held in April 1985. This hearing affirmed the juvenile referee's order in finding that although some improvement was made by J.M.G. while in prison "her chosen living arrangements do not supply the stable environment necessary for raising a 39-month-old boy who has been separated from his natural mother for 30 months of his life." At this time, J.M.G. had been released from prison, was living with a man with a lengthy criminal record, was pregnant by this man, and had no definite plans for marriage or employment. J.M.G. appeals the termination order.

The issue presented to us is whether there is clear and convincing evidence that D.W.G. 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(f)(7). In re W.G., 349 N.W.2d 487, 491 (Iowa 1984), cert. denied, 105 S. Ct. 1212 (1985). 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
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> b. The custody of the child has been transferred from his or her parents for placement pursuant to section 232.102 for at least twelve months; and
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> c. There is clear and convincing evidence that the child cannot be returned to the custody of his or her parents as provided in section 232.102.

See In re C. and K., 322 N.W.2d 76, 78 (Iowa 1982), appeal dismissed, 459 U.S. 1094 (1983). We have long adhered to the clear and convincing standard. In re Interest of Dameron, 306 N.W.2d 743, 744 (Iowa 1981). The clear and convincing standard is a requirement under the United States Constitution. Santosky v. Kramer, 455 U.S. 745, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982). Our central

concern in this review is the best interests of the child. In re T.D.C., 336 N.W.2d 738, 740 (Iowa 1983). Our termination statute is preventative as well as remedial, and, therefore, we will consider the long-range as well as the immediate future of the child if he were to be returned to the mother. Evidence of a parent's past performance is relevant to our review because it may be indicative of the quality of the future care that a parent is capable of providing. In re Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

The record is replete with evidence of J.M.G.'s inability to care for D.W.G. It is true that some evidence indicates that while in prison J.M.G. made some progress. However, the evidence clearly and convincingly shows that J.M.G. has never adequately cared for her child. The threatened suicides and threatened killing of the child, the repeated criminal activity even though fully aware of the consequences regarding maintaining custody of the child, the uncontrolled temper which led to the beatings of her mother and father, the inability to keep a job, the failure to keep visitation schedules or arranged parenting classes are all evidence of the mother's past performance. The life-style which she has chosen after her release from prison does not inspire confidence that an appropriate home environment will be created for the child. Her record in prison did not indicate substantial progress in developing a mature personality. The State has shown by clear and convincing evidence that D.W.G. cannot be returned to the custody of J.M.G. with a continuation of her established pattern of neglect, physical danger, and emotional abuse.

Nothing in appellant's evidence suggests that J.M.G. has made satisfactory progress in learning how to care for her child. This court will not ask the child to wait for the mother to mature. In re Interest of Lewis, 257 N.W.2d 505, 512 (Iowa 1977).

AFFIRMED.