

IN THE COURT OF APPEALS OF IOWA

No. 1-153 / 90-1673

FILED

MAY 29 1991

CLERK SUPREME COURT

IN THE INTEREST OF G.H., C.H., and U.D.H., Minor Children.

C.H., Mother,

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Appellant.

Appeal from the Iowa District Court for Black Hawk
County, Stephen C. Clarke, Juvenile Referee.

The mother of three children appeals the termination of
her parental rights. She challenges the sufficiency of the
evidence to establish the children cannot safely be
returned to her care. **AFFIRMED.**

Kevin D. Engels, Cedar Falls, for appellant mother.

Bonnie J. Campbell, Attorney General; Gordon E. Allen,
Deputy Attorney General; and Judy Sheirbon, Assistant
Attorney General, for appellee.

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

DONIELSON, P.J.

This case involves three children, a boy born in January 1986, a girl born in January 1987, and a boy born in August 1988. Their parents have never been married to each other; the parents did live together for several years, but that relationship has now ended.

The Department of Human Services (DHS) first had significant contact with this family in 1986 when the oldest child was removed from the parents prior to his discharge from the hospital. He was returned when the parents agreed to receive intensive services from DHS for one year, i.e., protective supervision, homemakers, and visiting nurses.

In February 1989, the mother (C.H.) came to DHS and requested that all three of her children be placed in foster care. An order of temporary removal was issued. The children were adjudicated children in need of assistance (CINA) in May 1989.

The evidence showed that both parents had profoundly neglected the children's physical and mental needs. The father physically abused the mother on repeated occasions. The mother is mildly to moderately retarded, and the evidence suggests that due to her limitations she has difficulty independently caring for herself, let alone the children. She has a history of relationships with physically abusive men and a history of residential instability. Since leaving the children's father she has

become involved with a new boyfriend of questionable stability and reliability.

During the children's foster care both parents missed many of the scheduled visitation appointments. C.H. did not attempt to see her children after placement in February until October 1989. C.H. has repeatedly failed to cooperate with service providers and has refused evaluative and supportive services. She has not demonstrated any substantial improvement in parenting skills. There was testimony that C.H. does not relate well to the children during visits and that she seems unable to address even the simpler of the children's needs.

In July 1990, the State filed a petition to terminate the parental rights of both parents with respect to all three children. After a hearing, the juvenile court did terminate the parental rights of both parents. The juvenile court relied on Iowa Code sections 232.116(1)(e) and 232.116(1)(g) (1989 Supp.). Those subsections permit termination if children cannot safely be returned to their parents' care after a CINA adjudication and extended foster care. (The subsections differ primarily in applying to children of differing ages.)

The mother has appealed from the termination order. The father has not appealed. The mother challenges the sufficiency of the evidence to establish that the children cannot safely be returned to her care.

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 we are not bound by those determinations. 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 Dameron, 306 N.W.2d at 745); see also In re A.C., 415 N.W.2d 609, 613 (Iowa 1987).

The evidence clearly establishes that these children, if returned to the custody of C.H., would be imminently likely to be neglected and would suffer harmful effects as a result of the inability of their mother to provide proper supervision for them. Several professionals involved in this matter believed C.H. would need a 24-hour-a-day supervised living situation in order to parent her children. C.H. refuses to consider such a living

arrangement. She is unable to explain or give specifics regarding the care and needs of her children. C.H.'s inability to independently parent these children is clearly demonstrated by the evidence.

C.H. recognizes her limitations but asks that we consider her fiance's willingness and ability to assist her in taking care of the children. The trial court specifically found this man's testimony not credible and we give weight to this finding. There is no evidence in the record which would establish that this man is capable of parenting. It appears C.H.'s relationship with this man is unstable and at times violent. Our concerns are not assuaged by C.H.'s present relationship.

There is clear and convincing evidence in this record that these children cannot safely be returned to their mother. We affirm the termination of C.H.'s parental rights

AFFIRMED.