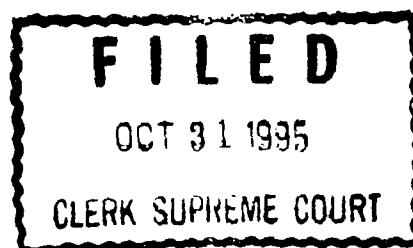


IN THE COURT OF APPEALS OF IOWA

No. 5-504, 95-778



IN THE INTEREST OF A.M.L.C., Minor Child,

B.J.C., Mother,

Appellant.

Appeal from the Iowa District Court for Clinton County, John G. Mullen,
Juvenile Court Judge.

The mother appeals from a district court order terminating her parental rights
to her daughter pursuant to Iowa Code sections 232.116(1)(g) and 232.117 (1993).

AFFIRMED.

Paul E. Pfeffer of Paul E. Pfeffer Law Office, Clinton, for appellant.

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

Thomas R. Mayer, Clinton, guardian ad litem for minor child.

Considered by Sackett, P.J., and Habhab and Huitink, JJ.

HABHAB, J.

B.J.C. gave birth to A.M.L.C. on August 1, 1992. B.J.C. was sixteen years old when A.M.L.C. was born. B.J.C. had been adjudicated a child in need of assistance in 1990 due to her behavior, including running away, inappropriate sexual matters, lying, and manipulation. She was placed in the custody of the Department of Human Services (DHS) and went through multiple out-of-home placements.¹

B.J.C. was residing at the Iowa Juvenile Home in Toledo, Iowa, at the time of A.M.L.C.'s birth. Upon placement at the Iowa Juvenile Home, B.J.C. was given several evaluations. These evaluations revealed she had been involved in an abusive relationship since her pregnancy, her former boyfriend dealt drugs, and she had been very sexually active in the prior year. She was also determined to be in the borderline range intellectually, could easily be led into delinquency, and had problems with male dependency. B.J.C. indicated A.M.L.C.'s father was Fred Jones, but Jones could not

¹ In June 1989, B.J.C. was hospitalized in a psychiatric unit and diagnosed as having an adjustment disorder with disturbance of conduct. B.J.C. was voluntarily placed at Hillcrest Shelter in February 1990. The shelter recommended a residential facility due to B.J.C.'s continued behavioral problems. In March 1990, B.J.C. was voluntarily placed at Quakerdale Homes. B.J.C. was adjudicated a child in need of assistance on May 2, 1990. B.J.C. was later released from Quakerdale for runaway and disruptive behavior. B.J.C. was then placed at Wittenmyer Youth Center for completion of a residential treatment program. No progress was achieved at Wittenmyer and B.J.C. was returned to her mother subject to the supervision of DHS effective October 1991. A hearing in April 1992 on a Motion for Modification of Dispositional Order to a More Restrictive Placement revealed the home placement did not go well. B.J.C. had become pregnant in November 1991, had been suspended from school, and was voluntarily placed in the Residential Adolescent Parent Program (RAPP). B.J.C. ran away from RAPP twice. The court ordered B.J.C. be placed at the Iowa Juvenile Home.

be located.²

A.M.L.C. was placed with the maternal grandmother after birth. The court adjudicated A.M.L.C. a child in need of assistance (CINA) on October 7, 1992, pursuant to Iowa Code section 232.2(6)(b) (1991).

Because B.J.C.'s attitude toward the child was positive, the court ordered B.J.C. and the child to be placed in the Residential Adolescent Parent Program (RAPP). B.J.C. and the child ran away from RAPP in January 1993 and were later dismissed from the program. Reports from RAPP indicated B.J.C. struggled at being a parent and was resistant to advice and suggestions. B.J.C. was shown to need improvement in every category of development; she was not operating satisfactorily in any category. The court found the RAPP placement had failed and ordered B.J.C. back to the Iowa Juvenile Home and A.M.L.C. was put in foster care.

After showing progress in the Iowa Juvenile Home, B.J.C. and A.M.L.C. were placed in the Teenage Parenting Program (TAPP) in August 1993 and on independent living in September 1993. The discharge report from TAPP, dated January 3, 1994, stated B.J.C. did not successfully complete the program. The report concluded B.J.C. continued to show poor parenting skills which would likely put A.M.L.C. in imminent danger of neglect or abuse. B.J.C.'s problems of lying and manipulation continued.

² After her admission to the Iowa Juvenile Home, but before A.M.L.C.'s birth, B.J.C. revealed the child's father was in his twenties and married, abusive, a drug user, and a drug dealer

B.J.C.'s motivation to maintain employment was questioned; she complied with supervision and hygiene requirements minimally. She was found to poorly supervise A.M.L.C. and failed to properly feed and clothe her.

Between January 1994 and March 1994, two child abuse referrals were received on the baby. In both instances, there was a finding of the denial of critical care.³ Independent living was terminated and A.M.L.C. was removed from the mother's home on March 15, 1994. The discharge report found B.J.C.'s parenting skills were still severely lacking. A.M.L.C. was placed in foster care.

The case permanency plan of March 1995 revealed no progress by the mother in the previous year. Her parenting skills continued to be poor. Her employment was sporadic. B.J.C. received supervised visitation and parenting skills and therapy from Lutheran Social Services for eleven months. While B.J.C. attended many of the supervised visitations, she showed little effort to attend parenting skills sessions.

The State filed a petition to terminate B.J.C.'s parental rights on February 20, 1995. Following a hearing, the district court terminated B.J.C.'s parental rights pursuant to Iowa Code section 232.116(1)(g) (1993). The court based its finding on the fact A.M.L.C. could not safely be returned to B.J.C. because the conditions leading to the CINA adjudication had not changed. The court noted there were

³ Both instances involved cigarette burns found on the child.

serious questions remaining about the mother's maturity, stability, decision-making, and the willingness to participate in those services necessary to establish a home for the child.

B.J.C. appeals.⁴

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

⁴ The guardian ad litem filed a brief arguing for the affirmance of the district court's decision to terminate B.J.C.'s parental rights.

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.

A child need not endlessly await the maturity of his or her natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983); *In re Kester*, 228 N.W.2d 107, 110-11 (Iowa 1975). "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *In re A.C.*, 415 N.W.2d 609, 613 (Iowa 1987). "Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable." *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

Since A.M.L.C.'s birth, B.J.C. has received numerous services. None of these services appear to have been of any benefit. B.J.C.'s parenting skills remain minimal and her maturity and judgment have not improved. We find there is clear and convincing evidence A.M.L.C. cannot be returned to B.J.C., and, accordingly, we affirm the decision of the district court to terminate B.J.C.'s parental rights.

In addition, we strongly recommend that the guardian ad litem continue to monitor the case to assure that the children have a secure and permanent placement at the earliest possible date.

AFFIRMED.