

IN THE COURT OF APPEALS OF IOWA

No. 1-243 / 91-271

FILED

AUG 27 1991

CLERK SUPREME COURT

IN THE INTEREST OF J.N., C.W. AND K.W., Children,

B.N., Mother,

379

Appellant.

Appeal from the Iowa District Court for Black Hawk
County, Walter W. Rothschild, District Associate Judge.

The mother of three children appeals the termination of
her parental rights. **AFFIRMED.**

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

Bonnie J. Campbell, Attorney General, John M. Parmeter
and Judy Sheirbon, Assistant Attorneys General, for
appellee State.

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

HAYDEN, P.J.

This case involves three children: a boy born in May 1982 and girls born in February 1984 and May 1986. All three children have the same mother; the two younger children have the same father, while the oldest child's father is unknown. The mother has lived with the father of the two younger children, G.W., but has never been married to him.

G.W., the father of the two girls, has admitted sexually abusing both of them. As a result of these acts, G.W. was charged with two counts of lascivious acts with a child. However, these two counts were dismissed when G.W. entered a guilty plea to a third count involving a different child. After his conviction on that charge, he was placed on probation. His probation was later revoked on two occasions, once for operating while intoxicated and once for marijuana use. In addition to the failings noted above, G.W. has also beaten the mother.

The mother has a serious and unresolved alcohol abuse problem. She has left the children unattended. She has been arrested for minor theft and for public intoxication. After G.W.'s sexual abuse of the daughters surfaced, she continued to have a relationship with him and to allow him contact with the children. She did this in spite of a court order prohibiting contact. It is questionable whether she can protect the children from future abuse.

All three children were adjudicated to be children in need of assistance in 1988. The two girls have been in foster care continuously since July 1988. The boy has been placed with his mother at times but has been in foster care continuously since July 1989.

During the children's foster care the mother has been unable to control their behavior during visits. She becomes frustrated and angry with the children on these occasions. Testimony indicates her parenting skills remain inadequate, and she has made little or no progress in improving them.

In August 1990 the State filed a petition to terminate the parental rights of both the mother and G.W. After a hearing the juvenile court terminated the parental rights of both these persons. With respect to G.W., the juvenile court relied on the ground of sexual abuse under Iowa Code section 232.116(1)(c). With respect to the mother, the juvenile court relied on Iowa Code sections 232.116(1)(e) and 232.116(1)(k). Subsection (k) permits termination if a parent's severe and chronic substance abuse prevents the child from being returned to the parent's custody within a reasonable time. Subsection (e) permits termination if a child cannot safely be returned to the parent's care after a CINA adjudication and extended foster care.

The mother has appealed the termination order. G.W. has not appealed.

The mother challenges the sufficiency of the evidence to warrant termination. She argues the evidence fails to establish the children cannot safely be returned to her care, which is an element required for termination under either subsection (e) or subsection (k).

Appellate review of termination proceedings is *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 3 (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); 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., 4 N.W.2d 609, 613 (Iowa 1987).

In the present case, the mother has failed satisfactorily to complete several alcohol treatment programs. She has not followed through on her AA program.

She continues to abuse chemicals, despite the fact this was interfering with her custody and care of her children. Successful completion of the treatment programs and sticking with her AA program were essential to regaining her own sobriety and the welfare of her children. Yet she has chosen not to maintain her sobriety.

Additionally, the mother continues to see the two girls' father, despite the no-contact order. The father has admitted to sexually abusing the two girls. There is an apparent danger the sexual abuse may reoccur. The mother has a responsibility to protect her children, not reexpose them to the danger.

Viewing the evidence as a whole, we are convinced this mother has not grasped what it means to be a parent. She refuses to take responsibility for her own life and sobriety. She puts other things, such as her drinking and chemical abuse, ahead of her children. She continues to see the man who sexually abused her two daughters, despite the no-contact order. She has not taken her own recovery seriously. It is obvious she cannot adequately parent her children at this time.

These children should not be forced to endlessly await the maturity of their mother. In re T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). Termination must occur if twelve to eighteen months have elapsed since the children were removed from the home and the mother still cannot take care of the children. Id. Evidence of the mother's past

performance may be indicative of the quality of future care she is capable of providing. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

We determine there is sufficient evidence to support the trial court's decision. We affirm the trial court's termination of the mother's parental rights.

We note the maternal grandparents have indicated a willingness to become the primary caretakers for these children. We believe this solution may be the best available. We therefore direct the trial court give priority consideration to placement of the children with the maternal grandparents when it makes the permanent placement decision.

AFFIRMED.