

FILED

MAR 30 1993

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-054 / 92-879

**IN THE INTEREST OF B.R.D.
A MINOR CHILD,**

**D.D., Natural Mother
Appellant.**

Appeal from the Iowa District Court for Polk County,
Vincent M. Hanrahan, Juvenile Judge.

The mother appeals a juvenile court's termination of
her parental rights. **AFFIRMED.**

Scot M. Halvorson, Leon, for appellant.

Bonnie J. Campbell, Attorney General, John M.
Parmeter, Special Assistant Attorney General, Katherine S.
Miller-Todd, Assistant Attorney General, and Ray Blase,
Assistant County Attorney, for appellee.

Kathryn Miller, guardian ad litem, for the child.

Heard by Schlegel, P.J., and Sackett, and Habhab, JJ.

PER CURIAM

This is an appeal by D.D., a mother of two children, from a juvenile court order terminating her parental rights to the younger child born May 19, 1986. We Affirm.

D.D. is thirty-two years old and suffered abuse as a child. Her children have different fathers. D.D.'s older child is in her father's care. D.D. lived with the father of this child until 1989 when she went to live with her parents. Her uncle and others abused her children and they were removed from her care and placed in foster care on September 1, 1989, because of the mother's inability to parent them.

After removal, the mother moved in with a brother who had also sexually abused the children. The social worker told her she needed her own home, but apparently made no affirmative effort to help her get it. The social worker suggested the mother get counseling. The mother did not feel counseling would help her. The child was difficult to parent and apparently reminded the mother of an abusive brother. By November, the mother was still living with her brother and had not found work. The mother contacted her social worker. The mother's whereabouts were not known for awhile and then she reconciled with her husband. The mother lived in Polk County. The child was not transferred to Polk County. The mother did not participate in all recommended services, but she did successfully complete a parenting class.

The child has adjusted well in foster care and is bonded to his foster family. The mother had a difficult time parenting the child because of behavioral problems. He has been put on Ritalin to control some of the behavioral problems. The child allegedly wants to stay in the foster home. It is hard to find him another home because the mother's husband has AIDS.

The mother at times has indicated she may agree to voluntary termination.

The social worker said the mother should enroll in parenting classes, participate in individual therapy and become involved in a victim's group. She attended some therapy but discontinued it. Her attorney says she discontinued therapy because she did not have the funds to continue.

The trial court found although the mother has been "provided a host of services, she is still not able to provide a safe home for the child."

There is clear and convincing evidence supporting the termination. Appellate review of a juvenile court's finding of a child in need of assistance is de novo. See In re J.R.H., 358 N.W.2d 311, 317 (Iowa 1984). Of paramount concern is the welfare and best interest of the child. See In re D.L., 401 N.W.2d 201, 202 (Iowa App. 1986). In determining what is in the best interest of the child, the court necessarily looks at the present conditions and past performance "for that performance may

be indicative of the quality of the future care that parent is capable of providing." In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981); see also In re Loeffelholz, 162 N.W.2d 415, 419 (Iowa 1968).

The reviewing court must review the record to determine whether the finding of a child in need of assistance is supported by clear and convincing evidence. See Iowa Code § 232.96(2) (1989). Although, on review, the court is not bound by the findings of the juvenile court, "we give weight to the juvenile court's findings of fact because the juvenile court has had the unique opportunity to hear and observe the witnesses first hand, . . ." In re S.V., 395 N.W.2d 666, 668 (Iowa App. 1986).

Iowa Code section 232.2(6)(b) (1991) provides:

Whose parent, guardian or other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

This Code provision allows for adjudication when a child has been physically abused.

We affirm the termination of the mother's parental rights.

AFFIRMED