IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 0-185 / 89-1841

IN THE INTEREST OF M.C., G.C., P.C., and C.C.
Minor Children,

K.C., Natural Mother,

Appellant.

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

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

Sara A. Kersenbrock, Waterloo, for the appellant mother.

Thomas J. Miller, Attorney General; Gordon E. Allen, Deputy Attorney General; and Kathrine S. Miller-Todd, Assistant Attorney General, for the appellee State.

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

DONIELSON, P.J. 42

A mother, K.C., appeals the termination of her parental rights. K.C. has four children: M.C., born May 8, 1980; G.C., born February 17, 1983; P.C., born January 23, 1984; and C.C., born December 20, 1985. K.C.'s ex-husband and the children's father, G.C., Sr., does not appeal from the termination of his parental rights.

This family has had a long history of social service intervention and assistance in three separate states. In 1981, the Ohio Department of Human Services received reports regarding M.C.'s filthy condition and his family's alleged failure to feed him. In 1982, M.C. was reportedly out in the street wearing only pajamas and was almost struck by a car. The family then left the area to avoid court action.

In 1983, the Iowa Department of Human Services (DHS) became involved with the family when a report of denial of critical care was substantiated. That incident involved M.C. (then age three) wandering over a quarter of a mile away from home after he had been left unattended in his parent's trailer. According to the mother this was the eleventh time M.C. had run away.

The family moved from Black Hawk to Polk County in 1984. Their case was transferred to Polk County officials, but services were terminated when the mother failed to follow through with them.

The parents separated and the mother moved to Wisconsin. The mother subsequently relocated to California. The San Diego California Protective Services reported that M.C., G.C., and P.C. were all placed in protective custody in July 1984 after they were found to be living with their mother and her boyfriend in a "flea bag motel" and the police were called due to the intoxication of the boyfriend. At some point, the mother disappeared, the boyfriend was in custody, and the children were left without a parent or guardian.

Some time later, K.C. was located and the children were returned to her. In September 1984, the California Protective Services received three calls in one day alleging G.C. had been left alone.

The reunited family returned to Black Hawk County in 1985. An abuse referral for denial of critical care was substantiated due to inappropriate supervision of the children in September 1985. On two occasions, the children were found to be wandering around the neighborhood in the morning prior to K.C. awakening.

On June 4, 1986, another investigation resulted in a substantiated claim of denial of critical care. The condition of the family home presented a health hazard to the children. Five dogs and nine cats lived in the home and were allowed to defecate and urinate throughout the house. Apparently the home was not cleaned and the feces

and urine were not removed. Several bags of maggot-filled garbage were later found in an enclosed entryway.

The family left Iowa on June 8, 1986, and returned to Ohio. Correspondence from the Ohio Department of Human Services reveals it sought to address concerns about hygiene, supervision, and the children's medical needs while the family resided in Ohio.

The family returned to Waterloo in the spring of 1987. On August 1st, M.C., then seven, G.C. (four), and P.C. (three) left the family home through a window, broke into a day care center, and took some "Big Wheels." They later broke into the Boys Club and were picked up by the police. That morning, the mother did not awaken until 11:00 a.m., when she noticed the children were gone. An abuse report was substantiated citing the mother's failure to provide proper care and supervision for her children, and on August 3, 1987, M.C. was removed from the parental home and placed in foster care.

M.C. was returned to the parental home on August 17, 1987, as the juvenile court determined he was not in imminent danger at the time of the removal. On August 24, 1987, all the children were adjudicated Children in Need of Assistance and placed under the protective supervision of DHS.

M.C. was picked up by the police on September 25, 1987, for stealing a candy bar from a grocery store. Also on September 25, 1987, another investigation resulted in a

substantiated report of denial of critical care. The filthy condition of the family home was determined to be a health hazard.

A dispositional hearing was held on October 22, 1987, at which time M.C. was placed in family foster care. His siblings remained in the care of their mother, subject to the protective supervision of DHS. A court order required the family to attend therapy sessions and accept homemaker services. Following a review hearing on December 21st, 1987, the previous dispositional order was continued.

In early 1988 the children's father left the family and has failed to maintain contact with them. K.C. subsequently acquired a divorce from him.

On February 3, 1988, one of the children in K.C.'s care started a fire in the family home. The home sustained extensive damage, and the three children who had been left in her care were placed in foster care on February 4, 1988.

On December 5, 1988, M.C. was returned to the care of his mother. The other three children were allowed overnight and extended visits in their mother's home. DHS intended to continually increase visitation in the unsupervised setting, with the goal of returning all of the children permanently to the mother's home.

On January 23, 1989, there was again a fire in the family home ignited by a child or possibly more than one child. K.C. neglected to inform DHS of the fire and continually minimized its seriousness. The evidence

suggests she wanted her children to conceal the fact that a fire had occurred and was resentful when P.C. told about it. K.C. continued to fail to child-proof her home and limit her children's access to matches and lighters. At the time a social worker investigated the second fire, three-year-old C.C. proceeded to come out from underneath a desk with a lighter in his hand. Also in January 1989, M.C. once again attempted to shoplift food and was caught.

As result of the mother's lack of supervision and the fire, DHS reduced K.C.'s visitation with her three younger children to Saturdays from 9:00 a.m. to 6:00 p.m. On March 8, 1989, K.C. was evicted from her home. She had failed to pay her January, February, and March rent. K.C. failed to inform either DHS or the court of her impending eviction and, in fact, she had indicated her rent had been paid. M.C. was then removed from her care and returned to foster care.

A petition to terminate parental rights was filed on May 5, 1989. Following a hearing on the petition, the juvenile court referee terminated K.C.'s parental rights pursuant to Iowa Code section 232.116(1)(e). K.C. now appeals the termination, claiming the court lacked clear and convincing evidence to justify the termination.

I. **Standard of Review.** 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 (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.

Iowa Code section 232.116(1)(e), relied upon as the basis for termination in the case at bar, allows termination of the parent-child relationship if:

> (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96;
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> (2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months; and
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> (3) There is clear and convincing evidence the child cannot be returned to the custody of the child's parents as provided in section 232.102.

The third requirement of this section is met when the child cannot be returned to the parental home because the definitional grounds of a child in need of assistance, Iowa Code § 232.2(6), exist. In re A.M.S., 419 N.W.2d 723, 725 (Iowa 1988).

II. Clear and Convincing Evidence. The record contains clear and convincing evidence to sustain the juvenile court's decision. K.C. attempts to couch the circumstances surrounding the termination as "economic" issues, and she asserts her plight does not warrant termination of her parental rights. We disagree. K.C. is an irresponsible and immature individual. She has proven to be unable to competently supervise her young children.

DHS reports are replete with references to the fact that K.C. often seemed "overwhelmed" by her children, and

she lacked the ability to adequately control and supervise them. DHS provided K.C. with a wealth of resources to assist her in improving her parenting skills.

The record in this case reveals K.C. was neither consistent nor particularly diligent in participating in court-ordered therapy sessions and homemaker services. The evidence indicates that while K.C. may have attended various therapy sessions and parenting classes, she never demonstrated an ability to apply what she had learned when caring for her own children.

While claiming she wants stability for her children, the fact is K.C. has been evicted from a number of homes. When questioned about how her ADC money was spent, she conceded she spends her money foolishly. K.C. is immature, and she fails to plan ahead and prioritize her expenditures to ensure payment of her rent and utilities.

While the record reveals K.C.'s housekeeping skills improved somewhat, she still is unable to provide adequate supervision for her children. She fails to "child-proof" her home and to recognize the danger which exists when her children have access to matches and lighters.

Our task in this case is difficult. K.C. has made some progress in this case, at least with regard to maintaining a clean home environment. We also recognize that M.C. is a difficult child whose problems make him difficult to

parent.[1] However, K.C.'s progress in this case has been limited. She has failed to maintain a stable home setting and to acquire the skills necessary to adequately supervise her children. If returned to her care, the children would face an unstable home environment and inadequate supervision and control.

Central to a determination of this nature are the best interests of the children. In re R.J., 436 N.W.2d 630, 635 (Iowa 1989). In this connection, we look to the children's long-range as well as immediate interests. Id. Hence, we necessarily consider what the future likely holds for the children if returned to K.C. 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 that parent is capable of providing. Id. "[O]ur 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).

Children should not be forced to endlessly suffer the parentless limbo of foster care while awaiting the maturity of their parents. Id. at 200. Clear and convincing evidence sustains the determination that these children cannot be protected from some harm which would justify the adjudication of the children as children in need of

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1. M.C. has been diagnosed as being hyperactive and having conduct and attention deficit disorders.

assistance if returned to their mother's care. The decision of the juvenile court is affirmed.

AFFIRMED.