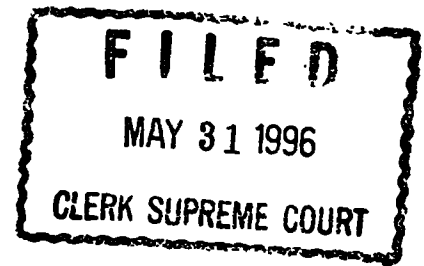


IN THE COURT OF APPEALS OF IOWA

—No. 6-282 / 96-0040



IN THE INTEREST OF L.W., Jr. and K.W., Minor Children,

L.W.P., Mother,

Appellant.

Appeal from the Iowa District Court for Wapello County, Gene W. Glenn,
Associate Juvenile Judge.

Mother appeals an order terminating her parental rights to her two children.

AFFIRMED.

Allen A. Anderson of Spayde White, & Anderson, Oskaloosa, for appellant

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney
General, Maureen McGuire, Assistant Attorney General, and Rose Anne Mefford,
County Attorney, for appellee

Gregory G. Milani of Orsbom Bauerle & Milani, Ottumwa, for minor children

Considered by Sackett, P.J., and Huitink and Streit, JJ. Vogel, J., takes no part

HUTTINK, J.

Lottie W. appeals the district court order terminating her parental rights to her minor children. We affirm.

Lottie W. is the mother of KaSandra, born October 7, 1987, and Larry, born September 16, 1988. The children have different fathers, both of whom have had their parental rights terminated and do not appeal. KaSandra and Larry were living with Lottie's husband, Lawrence, in 1992 when an investigation revealed the children had been physically abused by Lawrence. The children were adjudicated CINA in November 1992 and Lottie, who was living in Texas, did not seek custody at that time. Lottie has not seen the children since she last exercised supervised visitation in December 1992.

After the initial CINA proceeding, the State filed an amended CINA petition alleging the children had reported being sexually abused by Lawrence, Lottie, and Lottie's boyfriend, Ray. On July 20, 1993, the children were again adjudicated CINA pursuant to Iowa Code section 232 2(6)(f), and Lottie was allowed only supervised telephone contact with the children.

On September 29, 1993, the juvenile court filed a dispositional order continuing the children's placement in foster care. The court noted the children were in need of continuing sexual abuse treatment and that Lottie had neither received nor requested

any services. In a subsequent order, the court ordered Lottie to participate in appropriate treatment including parenting classes and sexual abuse programs.

Home studies conducted in 1993 and 1994 recommended against placing Larry and KaSandra with Lottie. The 1994 investigator noted that although Lottie and Ray had started parenting classes, they had missed several classes and did not receive a certificate of completion. Following several review hearings, the juvenile court again continued the children's foster care placement in March 1995. The court noted that the children continued to have behavioral problems and that Lottie had not participated in treatment and counseling services as directed. The court ordered the children have no contact with Lottie.

The State filed a termination petition on August 29, 1995. The juvenile court subsequently ordered Lottie's parental rights terminated pursuant to Iowa Code section 232 116(1)(e)¹ Lottie appeals

¹ Iowa Code section 232 116(1)(e) allows termination of parental rights if the court finds

1 The child is four years of age or older

2 The child has been adjudicated a child in need of assistance pursuant to section 232 96

3 The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

4 There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232 102

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.

Our 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). In deciding what is best for the child we look to the child's long-range as well as immediate interests. We also look to the past performance of the parents because it is an indication of the quality of care the parent is capable of providing in the future. *In re A.M.S.*, 419 N.W.2d 723, 726 (Iowa 1988) We will not terminate parental rights pursuant to Iowa Code section 232.116(1) absent clear and convincing evidence the requirements of each provision have been met *In re Chad*, 318 N.W.2d 213, 219 (Iowa 1982) As a prerequisite to termination, the State must show reasonable efforts to reunite the parent and child have been made *In re C.L.H.*, 500 N.W.2d 449, 453 (Iowa App 1993)

Lottie contends the State failed to show by clear and convincing evidence that KaSandra and Larry cannot be returned to her care. We disagree.

Our review of the record reveals KaSandra and Larry are in need of special treatment services in a stable and nurturing environment. Both children exhibit serious

behavioral problems and experience severe nightmares of being hurt by their “old dad” and “old mom.” While in foster care, KaSandra and Larry have participated in sex abuse treatment therapy, and providers for both children have indicated substantial problems remain necessitating long term care. We are unable to find anything in the record to indicate Lottie is able to provide the children with the services and treatment they need to combat their problems. Instead, Lottie’s failure to comply with court-ordered treatment and Iowa Department of Human Services recommendations for a period of over three years evidences her inability to follow through on necessary services for her children. Accordingly, we conclude it is in KaSandra’s and Larry’s best interests that they not be returned to Lottie’s care.

We are also unpersuaded by Lottie’s contention the State has not made reasonable efforts to reunify the family. Although the State ordered Lottie to take parenting classes and obtain counseling, she failed to take advantage of these services. She did not follow the DHS recommendation to locate a therapist for Larry in Dallas nor did she follow the district court’s order she attend educational programming about the effects of abuse on children. We can only conclude Lottie’s failure to be reunified with her family is not for lack of effort by the State, but is instead the result of Lottie’s failure to comply with court-ordered services.

On our de novo review, we find clear and convincing evidence showing KaSandra and Larry cannot be returned to Lottie’s care. The statutory grounds for

termination under section 232.116(1)(e) have been met. We conclude it is in KaSandra's and Larry's best interests to terminate Lottie's parental rights. We affirm.

AFFIRMED.