

IN THE COURT OF APPEALS OF IOWA

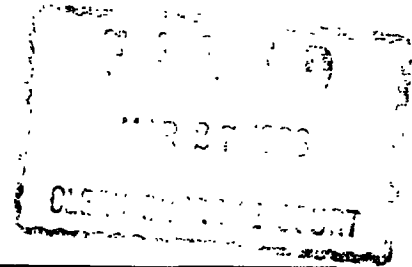
No. 6-048 / 95-1527

000183

IN THE INTEREST OF M.W. AND T.W., Minor Children,

L.W., Mother,

Appellant.



Appeal from the Iowa District Court for Webster County, Stephen E. Barbour,
Judge.

L.W., the mother, appeals the juvenile court's termination of her parental rights
to M.W and T.W. under Iowa Code sections 232.112(d), (e), and (g) (1995).

AFFIRMED.

Kevin A. Fors, Harcourt, for appellant.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney
General, Judy Sheirbon, Assistant Attorney General, and Rebecca J. Hanson,
Assistant County Attorney, for appellee.

Joseph B. McCarville of McCarville Law Office, Fort Dodge, guardian ad
litem for minor children.

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

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CADY, J.

This appeal requires us to determine if the district court properly terminated Lisa W.'s parental rights over her two daughters Maria and Tonya. We agree with the district court's determination and affirm the terminations.

Lisa gave birth to Maria on September 14, 1989 and Tonya on June 12, 1992. Each child has a different father. The fathers do not contest the termination of their parental rights. Lisa is mildly mentally retarded and lived at various times with her mother or her boyfriend, Larry. Maria lived with her maternal grandmother for the majority of her life, only briefly living with Lisa and Larry. Tonya lived with Lisa and Larry prior to foster care.

In April 1991, Lisa began receiving day care and in-home services due to Lisa's failure to give Maria prescribed medication and Maria's subsequent emergency hospitalization. Lisa continued to have difficulties caring for Maria, coupled with numerous physical fights with Larry. Lisa also attempted suicide. In July 1991, Maria was adjudicated to be a child in need of assistance (CINA) with custody and care granted to her grandmother. Lisa visited Maria sporadically while she was in her grandmother's care.

In January 1992, services provided to Lisa were terminated due to her lack of interest and her continued involvement in her volatile relationship with Larry. Lisa qualified for and began receiving supervised living program services. In-home

services were also reinstated in May 1992, but were terminated the next month after Lisa failed to keep appointments or visit Maria.

After Tonya's birth in June 1992, Lisa began receiving even more services to address hygiene, housekeeping, nutrition, parenting skills, safety, and domestic violence. Larry and Lisa's relationship remained tumultuous, however, with confrontations occurring often in front of Tonya. At one point, Lisa held a match over Tonya's crib threatening to set it on fire. The efforts to improve Lisa's parenting skills met with no success.

Family preservation services were initiated in March 1993, following an evaluation and recommendation by the University of Iowa Development Clinic. Lisa and Larry continued to frequently argue. No progress was made with housekeeping or parenting skills.

In August 1993, Tonya was adjudicated CINA and placed in foster care. Larry and Lisa were both offered group-parenting services but neither attended. Lisa attended few in-home sessions. Both received psychiatric evaluations, which concluded neither would benefit from services to the point they could parent either child due to their limited intellectual functioning and personality characteristics.

In late 1993, in-home services were terminated due to Lisa's lack of interest. Her visits with Maria and Tonya remained sporadic. She also did not become involved in any pre-school activities or conferences for Maria.

In August 1995, the juvenile court terminated Lisa's parental rights to Maria and Tonya pursuant to Iowa Code sections 232.116(1)(d), (e), and (g) (1995). Lisa appeals contending the termination was not in the best interests of either Maria or Tonya.

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 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 with terminations 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).

II. Termination of Maria

Lisa claims the "system" abandoned her by terminating her parental rights to Maria simply because she is "difficult" to work with due to her mental disabilities. Lisa asserts she will still be involved with Maria since Maria is residing with her grandmother, but will not have any help.

The record is replete of the various services provided to Lisa to improve her parenting abilities. Service providers, aware of Lisa's special needs, made attempts to specifically tailor their services to aid in her comprehension and understanding of the proper skills necessary to care for her daughters. The psychiatric evaluation also

noted the services would not aid in Lisa's abilities to care for her children. Moreover, we find no evidence indicating Lisa's desires to continue with the services. She failed to attend classes, keep appointments, and maintained sporadic visitation with Maria. As the juvenile court noted "every service imaginable" was provided or attempted to be provided, and the "period for services and visitations [has extended] well beyond that which would normally be contemplated as appropriate. . . ."

More importantly, Lisa has not shown any true maternal bond with Maria. She visits her infrequently, has not become involved in her school activities, and lived apart from her for the majority of Maria's young life. Her volatile relationship with Larry, coupled with her lack of concern and inability to care for the health needs of Maria do not indicate Lisa possesses a willingness to properly parent her child.

Terminating the parental rights over Maria will allow her grandmother, who has assumed the parenting responsibilities, the opportunity to make parental decisions regarding her medical and educational needs. *See In re L.S.*, 483 N.W.2d 836, 840 (Iowa 1992) (removal of child from the detrimental influence of their parents and provide a custodian who is free from the parent's assertion of their legal rights is in the child's best interests). Maria will also be available for adoption, and will have the opportunity for permanency in her life. *See Long v. Long*, 255 N.W.2d 140, 146 (Iowa 1977) (children should not be forced to suffer indefinitely in a parentless limbo). We find termination of Lisa's parental rights to be in Maria's best interests.

III. Termination of Tonya.

Lisa concedes the statutory grounds for termination of Tonya have been met, but argues attempts at reunification were foreclosed too soon. She claims her relationship with Larry has ended, and she has made slow progress toward reunification. As with Maria, we find the termination to be in Tonya's best interests.

Lisa has been unable to adequately care for Tonya, despite the numerous services provided to her. The services have adequately taken into account her special needs. Service providers also testified Tonya was at imminent risk for denial of critical care and for physical abuse.

Lisa has also not shown a strong parental bond towards Tonya. Her visits were sporadic. Testimony indicated Lisa and Tonya would play like "sisters" during visits, and did not display a typical mother-daughter relationship. Tonya currently lives with a foster family who has nurtured her and is willing to adopt her pending the completion of the termination. *See Long v. Long*, 255 N.W.2d 140, 146 (Iowa 1977); Iowa Code § 232.116(2)(b) (court considering termination should consider child's integration into a foster family and the family's willingness to permanently integrate the child). We agree with the trial court Lisa's parental rights over Tonya should be terminated.

IV. Conclusion

We find the termination of Lisa's parental rights over Maria and Tonya to be in their best interests. Both girls will achieve permanency in their lives and no longer suffer exposure to risks to their physical and mental well-being.

AFFIRMED.