IN THE COURT OF APPEALS OF IOWA

No. 0-558 / 99-1507
Filed October 25, 2000

IN THE INTEREST OF

S.R. and S.R.,
Minor Children,

G.L., Mother,
Appellant.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Scott County, Gary D. McKenrick, District Associate Judge.

Mother appeals from the court's order terminating her parental rights. **AFFIRMED.**

Patrick J. Kelly, Bettendorf, for appellant.

Thomas J. Miller, Attorney General, Tabitha Gardner, Assistant Attorney General, and Gerda Lane, Assistant County Attorney, for appellee-State.

Janice Roemer, Davenport, guardian ad litem for minor children.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

HUITINK, P.J.

A mother appeals the decision of the juvenile court that terminated her parental rights to her two minor children. She claims the State did not present sufficient evidence to warrant termination of her parental rights and termination is not in the best interests of the children. We affirm.

Gwen is the mother of Storm, born in June 1992, and Sarah, born in December 1995. The children's fathers have not been involved in their lives and are not involved in this appeal.

Gwen has a long history of drug and alcohol use. In January 1996 she was arrested in Illinois for delivery of a controlled substance. The children were placed in foster care from April 1996 until July 1996. Soon after the children were returned to Gwen's care, her probation was revoked due to her continued use of illegal drugs, and she was sent to a residential correctional facility in November 1996. The children were again placed in foster care, but were returned to Gwen's care in May 1997. The Illinois juvenile court's involvement with the children ended in November 1997.

Gwen and the children moved to Iowa in about January 1998. In March 1998 Gwen was found to be in violation of her probation because of drug use, but she was given a ninety-day delay in the disposition of her sentence.

On April 21, 1998, Gwen left the children, then ages five and two, home alone for an hour while she went to a local bar to drink. The children became scared and walked down a busy street to the bar to look for her. A bar patron reported two children were outside the bar. Gwen told the bartender the children

were not hers, but she left and placed the children in the care of a neighbor. Gwen then returned to the bar. Due to this incident, the Iowa Department of Human Services (DHS) issued a founded report of denial of critical care. In addition, Gwen was charged with child endangerment and placed in jail. In August 1998 Gwen pled guilty to child endangerment. She was sentenced to a term of imprisonment not to exceed two years. At the same time, her probation on the drug charge was revoked, and she received a term of imprisonment not to exceed ten years on this charge.

The children were placed in foster care. They were adjudicated to be children in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2), and (n). The children were brought to the prison for visitation with Gwen beginning in August 1998. She wrote letters to the children once a week and sometimes telephoned them.

In April 1999 the State filed a petition to terminate Gwen's parental rights to Storm and Sarah. In July 1999 Gwen was placed on parole and was expected to be sent to a residential correctional facility in September 1999. The termination hearing was held in August 1999.

The juvenile court terminated Gwen's parental rights to Storm under sections 232.116(1)(c), (e), and (i). Her parental rights to Sarah were terminated under sections 232.116(1)(c), (g), and (i). The court stated it was likely Gwen would return to her previous lifestyle, which involved substance abuse and criminal behavior. The court determined the children could not wait any longer for Gwen to assume a responsible lifestyle. Gwen appealed.

I. Scope of Review.

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the children. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. Sufficiency of the Evidence.

Gwen contends the State did not present sufficient evidence to warrant termination of her parental rights. She claims the children could be returned to her care at the present time, which is an element of sections 232.116(1)(e) and (g). She asserts she has done all she could do from prison in order to parent the children. Gwen wrote the children once a week. She sometimes telephoned. She participated in visitation when it was available. Gwen made tape recordings of herself reading books to the children, and then sent them the tapes and books.

A good prediction of the future conduct of a parent is to look at the past conduct. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998). The parent's past performance may indicate the quality of care the parent is capable of providing in the future. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

We determine the children could not be safely returned to Gwen's care at the present time. Because of Gwen's criminal actions, she was unable to care for the children for a substantial period of time. The children had been in foster care in Illinois for about ten months before their present stay in foster care in Iowa. Gwen remained in prison at the time of the termination hearing, although

she expected to be transferred shortly to a residential correctional facility. Even if Gwen were released from prison, she would still not be able to immediately resume her duties as a parent. Gwen would need to demonstrate stability, abstinence from alcohol and illegal drugs, and that she was a law-abiding citizen. The children should not be required to wait any longer for Gwen to become a responsible parent. The juvenile court properly terminated Gwen's parental rights under sections 232.116(1)(e) (Storm) and (g) (Sarah).

III. Other Code Sections.

When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). Because we have determined Gwen's parental rights were properly terminated under sections 232.116(1)(e) and (g), we need not address her claims regarding sections 232.116(1)(c) and (i).

IV. Best Interests of the Children.

Gwen claims termination of her parental rights is not in the children's best interests. She points out that she has a strong bond with Storm. Gwen asserts she has done her best to remain active in her children's lives.

Even if the statutory requirements for termination of parental rights are met, the decision of terminate must still be in the best interests of the children. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of children, the court looks to the children's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the

physical, mental, and emotional condition and needs of the children in deciding to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

We find termination of Gwen's parental rights is in the children's best interests. Gwen admitted she did not have much of a bond with Sarah, because Sarah had been in foster care for most of her life. While Gwen did have a strong bond with Storm, this bond was not healthy. Gwen bragged to social workers that Storm took care of her while she was intoxicated. Gwen also relied on Storm to watch Sarah. The children should not be required to wait any longer for Gwen to become the parent in the family.

We affirm the decision of the juvenile court.

AFFIRMED.