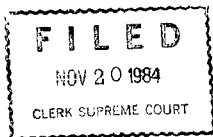


IN THE COURT OF APPEALS OF IOWA



IN THE INTEREST OF J.B., D.B. JR., J.B., and A.B., Children

)

M.B., Natural Mother,
Appellant.

)

Filed November 20, 1984

4-444
84-474

109

Appeal from the Iowa District Court for Poweshiek County, Max H. Ruschmeyer, District Associate Judge.

Natural mother appeals from a juvenile court order terminating parental rights to both parents with respect to four children. AFFIRMED.

Michael P. Brice, Oskaloosa, for natural mother.

Thomas J. Miller, Attorney General, and Gordon E. Allen, Special Assistant Attorney General, for appellee-State.

Considered by Oxberger, C.J., Donielson, and Sackett, JJ.

OXBERGER, C.J.

The petitioner is the mother of four children who were found to be in need of assistance. She is appealing the court's termination of her parental rights. We affirm.

The children of the petitioner J.B., now aged eleven, D.B. Jr., ten years old, J.B. eight years old, and A.B. four years old, were adjudicated to be children in need of assistance August 24, 1981. Custody of the children was transferred to the county Department of Social Services and they were subsequently placed in foster care. Numerous hearings followed for the purpose of reviewing the CHINA order and monitoring the progress of the children and parents. Pursuant to a court order, the Department of Social Services initiated proceedings for termination of parental rights. After hearings were held, the parental rights of the mother and father were terminated. The decision was upheld on a petition for rehearing by the juvenile judge. The petitioner-mother claims on appeal the determination of the court was not supported by clear and convincing evidence.

Our review of the proceedings is de novo. Iowa R. App. P. 14(f)(7). A decision to terminate parental rights must be supported by clear and convincing evidence. Iowa Code §§ 232.102(3), 116(5). The determination of the court to terminate parental rights was made pursuant to Iowa Code § 232.116(5) after finding a CHINA adjudication had previously been made, custody had been transferred from the parents for twelve months or more, and there was clear and convincing evidence the children cannot be returned to the parents pursuant to section 232.102. The best interests of the children are our primary concern. In Interest of W.G., 349 N.W.2d 487(Iowa 1984). Evidence showing the parents' past performance may be indicative of the quality of future care the parent is capable of providing. Id. at 492.

A review of the evidence shows the children's mother shows good intentions towards the children, but is incapable of caring adequately for them. The parents are separated and are awaiting assistance from legal aid to obtain a divorce. The

father acknowledges he is incapable of caring for the children and did not seek to regain their custody. Numerous child abuse reports were made relating to ongoing neglect prior to the CHINA adjudication. The mother has frequently and erratically changed residence, admitting in August 1980 to moving six times in two years, living in nine homes in fifteen months, and moving six times between January and April 1983 prior to the court hearing. The children missed two months of school because of the moves. The court found at the hearing that she had again moved from Brooklyn in April without notice of paying rent, had traveled to Omaha and lived there for two weeks with a woman she had known for only one week, and returned to Grinnell two weeks before the final termination hearing. In Grinnell she had moved three times in one week. Many of her moves involved living with people she did not know well. The children were observed to be filthy with the odor of urine and infestation of head lice, and lacked adequate clothing and food. The home was observed to be filthy and at one time unheated. The third child lacked proper toilet training and care. After the CHINA adjudication, she failed to fulfill the minimum standards of the case plan developed by the department, involving instruction on health care, child care, and budgeting. She did not comply with requirements she participate in mental health counseling. The court also noted she could not keep a job and without apparent reason quit one job as a cook. Her visitation with the children has been erratic.

After reviewing the record and arguments of both parties, we find the trial court decision was supported by clear and convincing evidence and affirm its decision to terminate the parental rights.

AFFIRMED.