

IN THE COURT OF APPEALS OF IOWA

No. 3-670 / 93-1194

FILED

APR 26 1994

CLERK SUPREME COURT

IN THE INTEREST OF L.W. and A.G., Minor Children,

E.W., Mother,

Appellant.

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

Mother appeals the termination of her parental rights to her her minor children. **AFFIRMED.**

Carter Stevens of Beecher, Rathert, Roberts, Field, Walker & Morris, P.C., Waterloo, for appellant.

Bonnie J. Campbell, Attorney General; John M. Parmeter, Special Assistant Attorney General; and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee-State.

Douglas V. Coonrad of Douglas V. Coonrad, P.C., Hudson, for appellee-father of A.G.

Jeffrey Peterzalek of Gallagher, Langlas & Gallagher, P.C., Waterloo, guardian ad litem for minor children.

Heard by Schlegel, P.J., and Habhab, J., and McCartney, S.J.*, but decided by Donielson, C.J., Hayden, Sackett, Habhab, Cady, and Huitink, JJ.

*Senior judge from the 2nd Judicial District serving on this court by order of the Iowa Supreme Court.

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PER CURIAM

The appellant, E.W., appeals the order of the juvenile court terminating her parental rights in her two minor children.

We affirm.

E.W. has two daughters, L.W., born February 14, 1990, and A.G., born October 30, 1990. The father of L.W. is unknown, but the father of A.G. is M.G.

E.W. presents three issues on her appeal. She asserts that it was not in the best interests of the two minor children that her parental rights be terminated, that it is not in the best interests of A.G. to have the parental rights of E.W. terminated, and that the trial court erred in not allowing a continuance of the termination hearing.

Our review is de novo, but we accord weight to the findings of the juvenile court since it was in the best position to judge the credibility of the witnesses and the weight of the evidence. In re A.R.S., 480 N.W.2d 888, 890 (Iowa 1992).

The best interests of the child determines whether or not parental rights should be terminated. Id. In so doing, we take into account the past performance of the parent since that history may shed light on what the children might anticipate in the way of future care from the parent. In re L.L., 459 N.W.2d 489, 494 (Iowa 1990).

This matter is replete with numerous instances of neglect of the children by E.W. and by her refusal to

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accept appropriate services offered her in an effort to improve her parenting skills so that she could care for the children.

In September 1990 when L.W. was about seven months old, E.W. failed to provide adequate shelter for her, failed to obtain necessary medical treatment for the child, and resided in a house that was unsanitary. She left L.W. with the putative father (later determined not to be the father) for a period of days, at which time the child was sick. E.W. did not provide provisions, medical authorizations, nor did she advise the caretaker where she could be located. L.W. became increasingly ill and was hospitalized. Because the appellant could not be located, the department of human services (DHS) intervened. The court ordered the provision of medical treatment. At this time, L.W. was placed in the temporary care and custody of DHS. In November 1990, L.W. was found to be a Child in Need of Assistance and continued in foster care. E.W. had, prior to this particular occurrence in September 1990, left L.W. with others sometimes for days.

After DHS intervened, E.W. had both supervised and unsupervised visits with L.W., and with the provision of homemaker services, L.W. was returned to E.W. in the latter part of January 1991. L.W. had been in foster care by this time approximately four months.

Family services were continued, but E.W. missed scheduled visits with the homemaker provided by DHS, and E.W. became pregnant with A.G.

E.W. failed to maintain contact with the social workers and again failed to provide adequate medical attention for L.W. Services were suspended in August by reason of E.W.'s disinterest, and finally in October 1991, the juvenile court directed E.W. to receive and cooperate with family preservation services which were again provided. But, again E.W. left L.W. at a baby-sitter's when the child was sick and without leaving appropriate clothing and without leaving information with the baby-sitter as to how E.W. could be contacted. As a consequence, L.W. was again removed from E.W. on October 21, 1991.

Almost from her time of birth, A.G. was found to be a Child in Need of Assistance under Iowa Code sections 232.2(6)(a), 232.2(6)(b), 232.2(6)(c)(2), 232.2(6)(e), and 232.2(6)(g). E.W. agreed to that adjudication. A.G. stayed with E.W. with family preservation services continuing while L.W. remained in foster care. L.W. was again returned to her mother on December 12, 1991, and had been in foster care almost two months on this occasion. E.W. showed some improvement in the latter part of 1991 in providing medical care for the children and in accepting homemaker services. E.W. failed to appear for a dispositional hearing held February 3, 1992, with respect

to A.G. This hearing was rescheduled for February 26, 1992, at which time the court found that E.W. was minimally cooperating but that her cooperation was still not adequate. The children remained with E.W. and again E.W. was ordered to cooperate with those providing services.

During these periods of time, E.W. had moved her residency on at least three occasions. E.W. again moved in April 1992 and did not inform homemaker services, home nursing services, or DHS of the move.

Any gains that E.W. may have made were now lost, and the condition of the children in this new residence, a two-bedroom trailer house already occupied by three people including the mother of E.W., became desperate. The children were dirty, their clothing was dirty, their hair was matted with food, unwashed and uncombed. All representatives of the providing services expressed great concern about the hygiene of the children. E.W. became threatening on one occasion and angry. During the period of time from February 1992 until June 1992, there were again many examples of medical neglect, disinterest by E.W. toward the children, her failure to assume any responsibility for their care, resulting in the children's unhappy physical conditions. Her resistance to the provision of services continued and deepened, and on June 8, 1992, both children were removed from E.W.'s custody and placed in foster care.

These children have remained in foster care since June 1992.

E.W. has refused counseling, although strongly urged to do so. She did, however, undergo evaluation after three months of missed appointments. Expert testimony reflected that E.W. has an antisocial personality disorder, and any changes effected by therapy require a long and intensive procedure without any assurance of success. Similarly, it is apparent that E.W. could not, within the foreseeable period of time, develop parenting skills whereby she could be the primary caretaker for the children.

The children cannot be left in limbo while the parent grows up. In re T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). The past history of the parent and of the care provided the child by the parent should be examined to determine the prospects for decent, nurturing care. In re L.L., 459 N.W.2d 489, 494 (Iowa 1990).

The evidence reflects a consistent lack of minimal care of the children by E.W. The children have suffered malnutrition and have undergone lack of decent medical care while with E.W. Their personal hygiene has been almost totally ignored, and the children have, from time to time, been kept in filthy and unsanitary surroundings. E.W. has minimally cooperated with services provided her when the children were in foster care, but when the children have been with E.W., she has refused services, refused help, failed to keep appointments, failed to keep in touch with

the court and with the service providers, and at times has been hostile to efforts made by these providers.

E.W. has not provided a stable, nurturing home life for the children, nor is there any indication that she will do so in the foreseeable future. In the words of the supreme court, "Children simply cannot wait for responsible parenting" In re L.L., 459 N.W.2d at 495. The neglect of L.W. for more than three years, and the comparable lack of care for A.G. for almost two years under the circumstances described are more than enough to determine that these children should not longer be kept waiting for responsible parenting.

E.W. further asserts that the juvenile court should have continued the hearing held upon the petition to terminate her parental rights. She believes that the matter should have been continued to allow her to pursue her possible placement together with the placement of L.W. in a facility designed to help a parent learn appropriate parenting skills. We do not believe the juvenile court abused its discretion in denying the motion for a continuance. Further laboratory experimentation with L.W. would not be in the best interests of the child. E.W.'s antisocial behavior, her prior lack of care of the children, her refusal to accept services and keep appointments, and the time involved all militate against her request. The juvenile court did not abuse its discretion in this regard.

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Accordingly, we affirm the decision of the juvenile court and dismiss the appeal.

AFFIRMED.

All judges concur except Sackett J., who specially concurs without opinion.