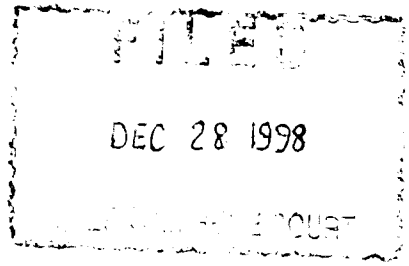
IN THE COURT OF APPEALS OF IOWA

No. 8-674 / 98-0312



IN THE INTEREST OF A.C.,
Minor Child,

S. Q.-L.,
Mother-Appellant.

Appeal from the Iowa District Court for Fayette County, Alan D. Allbee, Associate Juvenile Judge.

Mother appeals juvenile court order terminating her parental rights and placing child with his maternal grandmother for adoption. **AFFIRMED.**

Larry F. Woods, Oelwein, for appellant.

Thomas J. Miller, Attorney General, and Chris Odell, Assistant Attorney General, until substitute appearance by Katherine S. Miller-Todd, Assistant Attorney General, for appellee-State.

Considered by Sackett, C.J., and Huitink, Streit, Vogel, and Mahan, JJ.

MAHAN, J.

Stephanie and Jimmy are the parents of Aric, who was born in February 1996. Stephanie appeals the decision of the juvenile court terminating her parental rights. We affirm on appeal.

The relationship between Stephanie and Jimmy involved domestic violence. Stephanie suffered from severe postpartum depression. In April 1996, Aric was admitted to the hospital due to flu symptoms and dehydration. On May 2, 1996, Stephanie removed Aric from the hospital against medical advice. Aric's condition became worse and Stephanie returned him to the hospital. Stephanie refused counseling for her depression. Aric was removed from the home and placed with Stephanie's mother, Ruth.

Aric was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2) and (n). Stephanie was ordered to have a psychiatric evaluation and seek treatment for her depression. The parents were also to participate in family-centered services, including family therapy and parent skill development services. Stephanie was permitted informal visitation at Ruth's home.

Stephanie was not cooperative with services. She was inconsistent in attending services and visitation. She told social workers she felt family therapy was a waste of time. She did not complete her psychiatric evaluation or participate in counseling. Stephanie did not have a stable home, but lived with various friends. She was not able to maintain employment.

By October 1996, Stephanie and Jimmy had separated. Jimmy was later convicted of lascivious acts with a minor and sent to jail. His criminal conduct involved Stephanie's younger sister. Stephanie was arrested for assaulting Jimmy's mother.

In May 1997, Stephanie had a substance abuse evaluation due to concerns about her use of alcohol. The evaluation showed Stephanie was in the early stages of chemical dependency and extended outpatient care was recommended. Stephanie did not follow through with this recommendation. Also, in May 1997, Stephanie participated in a focused family assessment at the University of Iowa Hospital School. The report recommended termination of Stephanie's parental rights. The report found no evidence to support removing Aric from Ruth's care.

Aric has done very well since being placed with Ruth and he is developing appropriately. Aric is bonded with Ruth. Ruth has expressed an interest in adopting Aric.

In September 1997, the State filed a petition for termination of parental rights. The court terminated the parental rights of Stephanie and Jimmy under sections 232.116(1)(d) and (g). The court noted the potential for interference by the parents would be lessened by an order for termination of parental rights and adoption by Ruth. Stephanie now appeals the termination of her parental rights.

The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). 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 child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Stephanie contends the juvenile court should have entered a permanency order placing Aric in the custody of Ruth instead of terminating her parental rights. Under section 232.116(1)(3)(a), the juvenile court need not terminate parental rights if the child has been placed in the legal custody of a relative. Stephanie asserts that because Aric has been placed with a relative, her parental rights should not be terminated unless the State shows an adjudicatory harm to the child from continued contact with her.

Section 232.116(3) has been interpreted to be permissive, not mandatory. *In re C.L.H.*, 500 N.W.2d 449, 454 (Iowa App. 1993). It is within the sound discretion of the court, based upon the unique circumstances before it and the best interests of the child, whether to apply this section. *In re A.J.*, 553 N.W.2d 909, 916 (Iowa App. 1996). Generally, once the grounds for termination of parental rights have been shown, termination is in the best interests of the child. *In re L.M.F.*, 490 N.W.2d 66, 68 (Iowa App. 1992).

Considering the facts of this case, we determine termination of Stephanie's parental rights is in Aric's best interests. Stephanie admits there is sufficient evidence to terminate her parental rights under sections 232.116(1)(d) and (g). She has not been able to place herself in a position to care for Aric. She did not cooperate with services and did not address the problems which led to Aric's removal. Aric has now

bonded with Ruth. Aric should not be required to wait for Stephanie to become a responsible parent. *See In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

We affirm the decision of the juvenile court terminating Stephanie's parental rights to Aric.

AFFIRMED.