IN THE COURT OF APPEALS OF IOWA

No. 0-448 / 00-0521
Filed August 30, 2000

FILED
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CLERK SUPREME COURT

IN THE INTEREST OF D.B., Minor Child,

V.C., Mother,
Appellant.

Appeal from the Iowa District Court for Dubuque County, Jane C. Mylrea Associate District Judge.

The mother of minor child D.B. appeals a juvenile court order terminating her parental rights. **AFFIRMED.**

C. J. May III, Dubuque, for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney General, and Jean A. Becker. Assistant County Attorney, for appellee State.

John T. Nemmers of Reynolds & Kenline, L.L.P., Dubuque, guardian ad litem for minor child.

Daniel J. McClean of McClean Law Office, Dyersville, for father F.B.

Considered by Vogel, P.J., and Miller and Hecht, JJ.

VOGEL, P.J.

Victoria, the natural mother of minor child, Dakota, appeals the juvenile court order terminating her parental rights under Iowa Code section 232.116(1)(g). Because we find the record reflects a showing of clear and convincing evidence that the child could not be returned to Victoria at the time of the termination and it is in the best interests of the child to terminate the relationship, we affirm.

Background facts. Dakota was born on June 22, 1998, and resided with his natural mother, Victoria, for one year before his removal on June 22, 1999. He was removed from Victoria's care because of her substance abuse and domestic violence issues, which prevented her from adequately caring for Dakota. He was adjudicated to be a Child in Need of Assistance on July 30, 1999, and placed in the custody of his maternal aunt and uncle. In an attempt to reunite this family, the Department of Human Services (DHS) offered Victoria various services, including substance abuse treatment (both inpatient and outpatient), parenting classes, counseling, drug testing twice a week, and a psychological evaluation. Despite these services, Victoria failed to adequately address her problem areas and her parental rights to Dakota were terminated on February 25, 2000. Victoria now appeals this decision.

Scope of review. We review proceedings to terminate parental rights de novo. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We review the facts as well as the law and adjudicate parents' rights anew, giving weight to the findings of the juvenile court, particularly with respect to the credibility of witnesses, but

are not bound by them. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7).

Our primary concern in a termination proceeding is the best interests of the child. *R.R.K.*, 544 N.W.2d at 275. Those best interests are determined by looking at the child's long-range as well as immediate interests. We consider what the future likely holds for the child if that child is returned to his or her parents. Insight for that determination may be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing. *L.L.*, 459 N.W.2d at 493; *Dameron*, 306 N.W.2d at 745.

Clear and convincing evidence. Iowa Code section 232.116(1)(g) requires a showing of clear and convincing evidence that the child at issue cannot be returned to parental custody at the time of the termination because the definitional grounds for a Child in Need of Assistance still exist. Victoria alleges the record does not establish that Dakota could not have been returned into her custody. The State contends the child could not have been returned into Victoria's care due to her failure to address her substance abuse and domestic violence issues within the statutorily prescribed time limit.

At the time of the termination, Dakota had been out of Victoria's care for approximately eight months. During that time, DHS had attempted to provide services to Victoria to facilitate Dakota's return to the home. However, Victoria was not cooperative with or receptive to the offers of help extended to her. She

has continuously denied having a substance abuse problem despite consistently testing positive for drugs, indicating both marijuana and cocaine usage.

Victoria was to receive supervised visitation sessions with Dakota once she provided a negative drug test. She alleges when she provided such a result, DHS changed the rules to require two clean tests and still refused to allow her visitation with Dakota. DHS, however, testified the results of her two clean tests were sent on the same result notice as her next consecutive drug test, which was a positive result. Therefore, the window created by her clean results was too narrow to schedule a visitation for Victoria and Dakota. Early in November 1999, Victoria refused to provide further samples for drug testing and, therefore, was not allowed to visit with Dakota. Victoria has had very little visitation with the child since his removal on his first birthday.

In addition, Victoria has refused to participate in either inpatient or outpatient substance abuse treatment. She has not completed counseling or the remaining services offered by DHS. Although she no longer lives with her former abusive boyfriend, she is currently involved in a relationship with a man who has a history of domestic violence. Her living environment is unstable. She currently lives in an apartment free of charge because it is not inhabitable to rent to a tenant at this time. The condition of the apartment raises a concern as an appropriate environment for a toddler. Further, Victoria is not currently working and pays for her food items with money given to her by her boyfriend and landlord for occasional repairs and cleaning jobs she performs.

Clearly, Dakota cannot be returned to this environment. His foster parents provide an adequate environment for Dakota, even taking classes to allow them to better meet his special needs developed from fetal exposure to illegal narcotics. They are willing to adopt him and take on the responsibility of meeting his needs and encouraging his growth and development to a mature adult. The record indicates the best interests for Dakota are to terminate the relationship with his natural mother and allow him to become part of a secure and stable environment. Accordingly, we affirm.

AFFIRMED.