IN THE COURT OF APPEALS OF IOWA

No. 9-148 (1999-37) / 98-1718
Filed April 30, 1999

IN THE INTEREST OF I.P., Minor Child,

J.P., Mother,
Appellant.

Appeal from the Iowa District Court for Wapello County, Gene W. Glenn, Associate Juvenile Judge.

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

R. T. Starken of Starken Law Office, Ottumwa, for appellant.

Thomas J. Miller, Attorney General, Chris C. Odell, Assistant Attorney General, and Sean P. Weiser, Assistant County Attorney, for appellee State.

Michael C. Vinyard of Vinyard & Curran, Ottumwa, guardian ad litem for minor children.

Heard by Sackett, C.J., and Huitink and Zimmer, JJ.

SACKETT, C.J.

Jo, the mother of Isaac, appeals after the juvenile court terminated her parental rights to Isaac. Jo contends there is not clear and convincing evidence supporting the termination. She specifically contends Isaac can be returned to her care and there is no evidence of Isaac's future after termination of her parental rights. We affirm.

This case began when Jo, on July 11, 1995, left Isaac at the Wapello Public Health Nursing Office with a note that she was "all out of fight." Jo voluntarily signed an agreement Isaac be placed in foster care. However, on July 17, 1995, Jo asked that Isaac be returned to her care. He was not returned. The State obtained an ex parte order affirming Isaac's removal and, after a hearing on July 31, 1995, his custody was placed with the Department of Human Services. The State then filed a petition asking Isaac be found a child in need of assistance. In October of 1995, the juvenile court found Isaac a child in need of assistance as defined by Iowa Code sections 232.2(6)(c)(2) and 232.2(6)(n) (1995). Isaac's custody remained with the Department of Human Services, where his custody remained following four review hearings in December of 1996, June of 1997, September of 1997, and March of 1998. At all times he has been in the Department's custody in foster home placement.

In May of 1998, the State petitioned for termination of parental rights of Isaac's mother under Iowa Code section 232.116(1)(g) and of Isaac's father under section 232.116(1)(b). The juvenile court ordered Jo's parental rights terminated under

section 232.116(1)(g). The parental rights of Isaac's father, who was never involved in Isaac's life, were also terminated. Jo has appealed. Isaac's father has not.

We review de novo. *In re W.G.*, 349 N.W.2d 487, 491 (Iowa 1984); *In re Miller Children*, 228 N.W.2d 60, 61 (Iowa 1975). However, we give weight to the juvenile court's findings of fact, especially the credibility of the witnesses. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *W.G.*, 349 N.W.2d at 491.

We consider both the long-term and immediate interests of the child when terminating parental rights. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). Evidence from a parent's past performance may be used to gauge the quality of life the child may receive in the future. *Id.*

A termination hearing involves the weighty issue of whether a court should sever biological ties. *In re R.B.*, 493 N.W.2d 897, 899 (Iowa App. 1992). The issue of whether or not to legally sever the biological ties between parent and child is an issue of grave importance with serious repercussions to the child as well as the biological parents. *Id.* The goal of a child-in-need-of-assistance proceeding is to improve parenting skills and maintain the parent-child relationship. *Id.* When the State seeks termination, it is because the State has been unable to furnish the help necessary to correct the parent's deficiencies. *See id.* An underlying issue in a termination action is whether the parent is beyond help. *Id.* But a parent does not have an unlimited amount of time in which to correct his or her deficiencies. *See In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990).

The focal question in this case is whether Isaac can be returned to his mother's care. Jo has utilized visitation and has exhibited a good relationship with her son. Furthermore, the record shows Jo loves Isaac and has an interest in his care. There is no evidence she has abused him sexually or physically. Jo, however, has not maintained a stable lifestyle. She has difficulty maintaining steady employment. She has been unable to maintain a stable home. Jo has lived in a large number of places, including with friends and in homeless shelters. She admits she has poor judgment. She has been offered a number of services in the time Isaac has been in foster care. Jo was provided with free housing by the Ottumwa Housing Authority but voluntarily moved out. There is no promise of any future stability in her life. She offers a number of explanations for her problems which the juvenile court did not believe, nor do we.

Jo advances the termination is based on a finding she has "odd thinking" and she contends this is not sufficient to terminate. She contends she should not lose her child because she does not have a place to live.

Jo seems unable to lead any type of life other than a nomadic existence. Her place in Isaac's life is not necessarily causing him harm as long as he has the stability of a foster care home. Isaac had been in foster care over three years before the termination petition was filed. At the time it was filed, Isaac's foster family was not certain they wanted to adopt him.

We agree with Jo the fact she thinks differently than some people and does not currently have a place to live does not support termination of her parental rights. However, the record reflects Jo has been provided numerous services, including free housing, and she has been unable to establish the stability in her life to care for her child. There is clear and convincing evidence at the time of the termination hearing Isaac could not be returned to her care. The legislature has directed under such circumstances parental rights should be terminated.

Isaac is a special needs child and his development is dependent on stability in his life. There is no evidence Jo can provide this stability.

We affirm.

AFFIRMED.

No. 98-1718. [1999-37 (9-148)] IN RE I.P.

Appeal from the Iowa District Court for Wapello County, Gene W. Glenn, Associate Juvenile Judge. **AFFIRMED.** Heard by Sackett, C.J., and Huitink and Zimmer, JJ. Opinion by Sackett, C.J. (5 pages $2.00)

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