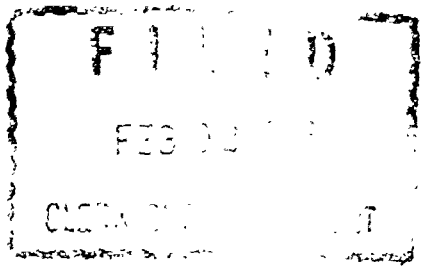
IN THE COURT OF APPEALS OF IOWA

No 5-741 / 95-1093



**IN THE INTEREST OF J.M.C., S.L.C., AND L.R.C.,
Minor Children,**

L.M., Mother,

Appellant.

Appeal from the Iowa District Court for Woodbury County, Mary McCollum Timko, Associate Juvenile Judge.

The mother of three minor children appeals the district court's order terminating her parental rights. **AFFIRMED.**

Craig H. Lane of Craig H. Lane, P.C., Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Marleen Loftus, Assistant County Attorney, for appellee.

Michael O'Brien, Sioux City, guardian ad litem for minor children.

Considered by Sackett, P.J., and Cady and Huitink, JJ.

HUITINK, J.

L.M. appeals the district court order terminating her parental rights to three of her four minor children. We affirm.

L.M. is the mother of J.C., born July 8, 1984; S.C., born February 8, 1986; L.R.C., born April 15, 1991; and S.C., born November 10, 1993. This case involves only the three eldest children. L.M.'s family first came to the attention of the Iowa Department of Human Services in January of 1991, when a child abuse investigation revealed J.C. had been sexually abused by her stepfather, D.M. D.M. was criminally charged, convicted, and jailed for abusing J.C. L.M. and D.M. were divorced in 1991, and L.M. has not remarried.

The department received a second child abuse referral in February of 1992 alleging that L.M. abandoned her family for days at a time leaving J.C., then seven years old, home to care for her younger siblings. The referral also alleged L.M. abused alcohol and drugs and that the family home was filthy and cluttered. The department conducted another investigation at which time J.C. indicated she helped care for the children when her mother came home drunk. L.M. denied leaving the children home alone and stated that while she did drink, she did not do so to excess. L.M. entered an alcoholism day treatment plan on February 20, 1992. She continued in this program until March 11, when she was discharged for noncompliance with the program requirements.

The department of human services received a third child abuse referral on May 11, 1992. The referral alleged that L.M. left J.C. at the home of a friend for over a week despite her having stated that J.M. would only be there for one and one-half hours. L.M.'s whereabouts were unknown. An investigator later found L.M. at her parents' home where she had been staying with the two younger children. An altercation following a four-day drinking binge led L.M. to re-enter alcohol treatment on May 15, 1992.

The State filed CINA proceedings on June 2, 1992. L.M. became suicidal at this time, and the children were placed in foster care. The district court adjudicated the children to be in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2), (d) and (n) (1992). The children continued in family foster care, and L.M. was allowed supervised visitation. She, however, did not exercise this visitation and had only minimal contact with the children for a period of about two months. At a September 18 dispositional hearing, the district court ordered continued foster care and allowed L.M. visitation when she enrolled in treatment.

L.M. entered the Bernie Lorenz treatment program on September 23, 1992. She remained there until February of 1993, at which time she tested positive for cocaine and alcohol. L.M. denied using cocaine and left the facility. Although Bernie Lorenz was willing to readmit her to the program, L.M. refused to return. The children remained

in foster care, and the district court suspended visitation pending L.M.'s re-entry into treatment.

For the next six months, L.M. was unable to complete a drug treatment program and continued to deny she had a drug and alcohol problem. When interviewed for a department of human services family assessment, L.M. stated that she began drinking after leaving Bernie Lorenz but had stopped because she had become pregnant. The assessment concluded it was not in the children's best interests to be placed with L.M., though it was recommended the children maintain contact with her.

The State initiated termination proceedings on April 12, 1994. After several continuances, a termination hearing was held on March 17, 1995. At the hearing L.M. testified that she needed continued treatment to combat her alcohol and drug problems. She further testified that she was suffering from depression and an eating disorder but had not sought medical attention. The children's therapist testified that the children should remain in foster care while having continued contact with their mother. Finally, the department of human services offered testimony that despite the foster family's efforts to allow visitation, L.M.'s contact with her children was minimal. The record indicates she only visited her children six to ten times in 1994. The juvenile court terminated L.M.'s parental rights as well as that of the children's respective fathers on June 2, 1995. L.M. appeals.

Appellate review of termination proceedings is de novo *In re W.G.*, 349 N.W.2d 487, 491 (Iowa 1984) *cert. denied sub nom. J.G. v. Tauke*, 469 U.S. 1222 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations *Id.* at 491-92.

Our primary concern in termination proceedings is the best interest of the child. Iowa R. App. P. 14(f)(15); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). In deciding what is best for the child we look to the child's long-range as well as immediate interests. We also look to the past performance of the parents because it is an indication of the quality of care the parent is capable of providing in the future. *In re A.M.S.*, 419 N.W.2d 723, 726 (Iowa 1988). We will not terminate parental rights pursuant to Iowa Code section 232.116(1) absent clear and convincing evidence the requirements of each provision have been met. *In re Chad*, 318 N.W.2d 213, 219 (Iowa 1982). As a prerequisite to termination, the State must show reasonable efforts to reunite the parent and child have been made. *In re C.L.H.*, 500 N.W.2d 449, 453 (Iowa App. 1993).

L.M.'s parental rights were terminated pursuant to Iowa Code sections 232.116(1)(c), (e), (g) and (k) (1995).[1] On appeal, L.M. does not argue that the grounds

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[1] The respective grounds for termination under these provisions are as follows: the child or another child in the family has been adjudicated CINA after finding the child has been abused or neglected and circumstances remain unchanged; the child is four years of age or older, has been adjudicated CINA, has been removed from parent's physical care for

for termination have not been met, but instead claims the State has not made reasonable efforts to reunite her with her children. She claims the State's petition to terminate her parental rights was premature and requests a remand so additional efforts may be made to reunite her with her children.

We find the State has made reasonable efforts to reunite L.M. with her children. The record shows the department of human services provided L.M. with several opportunities for alcoholism treatment and therapy. L.M. maintains that she has successfully participated in these programs and has, in fact, maintained her sobriety. We, however, agree with the district court that there is nothing in the record beyond L.M.'s testimony to indicate she has remained sober. In fact, contrary evidence exists showing L.M. has been drinking as recently as March of 1995 despite her testimony she has not had a drink in over a year. The record also shows the State provided L.M. with the opportunity to attend parenting classes, but that her participation in these classes was minimal. Finally, we find that despite the department's and foster family's efforts to allow L.M. visitation, she has made only a limited effort to exercise these privileges. These facts, along with L.M.'s tendency to leave her children with inappropriate caretakers and general inability to care for herself provide clear and convincing

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twelve of the last eighteen months and cannot be returned to parent's custody; the child is three years old or younger, was previously adjudicated CINA, has been out of parent's custody for at least six months and cannot be returned at the present time; the child has been adjudicated CINA, parent has severe substance abuse problem and parent's prognosis indicates that child will not be able to return to parent's custody within a reasonable time under the circumstances. Iowa Code § 232.116(1) (1995).

evidence that it is in the children's best interests to terminate L.M.'s parental rights. We affirm the decision of the juvenile court.

AFFIRMED.