IN THE COURT OF APPEALS OF IOWA

No. 1999-433 (9-686) / 99-1141
Filed January 12, 2000

FILED
JAN 1 2 2000
CLERK SUPREME COURT

IN THE INTEREST OF
N.C. and J.C,
Minor Children,

J.C., Mother
Appellant.

Appeal from the Iowa District court for Cerro Gordo County, Gerald Magee, Associate Juvenile Judge.

Mother appeals the decision of the juvenile court which terminated her parental rights to her two minor children. **AFFIRMED.**

F. David Eastman of Eastman Law Office, L.L.C., Clear Lake, for appellant.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee State.

Ronald Arispe, of Arispe Law Offices, Clear Lake, guardian ad litem for minor children.

Considered by Huitink, P.J., Hecht, J., and Habhab, S.J.*

*Senior Judge assisgned by order pursuant to Iowa Code § 602.9206 (1999).

HABHAB, S.J.

The mother appeals the decision of the juvenile court which terminated her parental rights to her two minor children. She claims the State did not present sufficient evidence to support termination of her parental rights and termination is not in the best interests of the children.

Janetta is the mother of Nicole, born in February 1995, and Jessica, born in June 1996.[1] Janetta has a lengthy history of substance abuse.

The family came to the attention of the Department of Human Services (DHS) in February 1997 due to allegations Janetta had exposed the children to illegal drugs. She was then on probation for possession of a controlled substance. Testing of the children's hair showed positive for cocaine. DHS issued a founded report of illegal drug exposure to the children.

As a requirement of Janetta's probation, she was to attend a substance abuse treatment program. Janetta completed a substance abuse evaluation. She met the criteria for poly-substance abuse. The evaluation recommended Janetta receive inpatient treatment services. She did not enter recommended treatment. Due to her failure to attend a treatment program she was arrested in March 1997 and placed in jail. She voluntarily agreed to place the children in foster care. Janetta was released from jail in April 1997.

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[1] The children's father has not been involved in their lives. His parental rights were also terminated. He has not appealed.

The children were adjudicated to be children in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(c)(2) (1997) (child has suffered harmful effects as a result of failure of parent to exercise care in supervising child). The juvenile court ordered Janetta to abstain from using illegal drugs and alcohol, participate in drug testing, receive a psychological evaluation, obtain employment and housing and participate in visitation with the children.

Janetta was uncooperative with services. She did not keep meetings for family-centered services. By July 1997, Janetta had only met with her family therapist one time. She did not attend any meetings between August and December 1997. Janetta was also sporadic at attending supervised visitation with the children. She did not attend visitation between September 1997 and February 1998. Between June 1997 and January 1998, she had only three visits with the children. Janetta lived with several different friends and was homeless for a period of time. She was unable to maintain stable employment. During this time, in November 1997, the State filed a petition to terminate Janetta's parental rights.

Janetta did not begin to comply with services until January 1998, when she had a new substance abuse evaluation, which found she had the symptoms of marijuana abuse. A recommendation of residential treatment was made. After a psychological evaluation Janetta was diagnosed with a mixed personality disorder with paranoid and histrionic features and post-traumatic stress disorder. Janetta had prominent feelings of hostility and resentment. She had a tendency to be both over-reactive and

argumentative in interpersonal situations. The evaluation noted treatment with Janetta was likely to be difficult.

In February 1998, Janetta successfully completed an outpatient substance abuse program. She began to increase her participation in services. She attended family therapy sessions and visitation.

The children have done well in foster care. They have developmentally appropriate levels of skills. Their foster care family is interested in adopting them.

A hearing on the termination petition was held in May 1998. The court determined that due to Janetta's recent improvement, she should be given another opportunity to demonstrate progress, address substance abuse issues, and stabilize her life. The court suspended the proceedings for a period of time.

Janetta resumed her pattern of noncompliance with services. She was scheduled to enter an intensive substance abuse treatment program in August 1998, but did not do so. She missed several visits between July and November 1998. Janetta had a positive drug test in January 1999. She then entered substance abuse treatment, which she successfully completed.

A second hearing on the petition to terminate parental rights was held on separate days in March, April and May 1999. The juvenile court terminated Janetta's parental rights under sections 232.116(1)(d) (child CINA, child removed from parent's custody for six months, and parents have made no effort to resume care of the child) and (g) (child three or younger, child CINA, removed from parent's custody

six of last twelve months and cannot be returned to parent). The court determined the children could not be returned to Janetta's care at the present time. Janetta appealed.

I. The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). 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 children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Janetta claims the State did not present sufficient evidence to support termination of her parental rights. She points out that after the first termination hearing the juvenile court found there was not sufficient evidence to support termination of her parental rights. Janetta asserts the children would not be in imminent risk of harm if they were returned to her home. She states she is now drug free and is ready to parent the children.

A good prediction of the future conduct of a parent is to look at the past conduct. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998). The parent's past performance may indicate the quality of care the parent is capable of providing in the future. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

We find the children cannot be safely returned to Janetta's care at the pres time. Janetta has a lengthy history of substance abuse and she continues to str with maintaining a drug-free lifestyle. She had a drug test which was posit

illegal drugs as recently as January 1999. She did not demonstrate reasonable and consistent efforts to resume care of the children. Her participation in visitation was sporadic.

We note the guardian ad litem filed a brief with the juvenile court recommending termination of Janetta's parental rights under section 232.116(1)(g). The guardian ad litem recognized the children could not be returned to Janetta's care at the present time. The guardian ad litem stated:

> Although the Court should be patient with parents in [the mother's] situation, children in foster care cannot wait unusual long periods of time while a parent improves her parenting skills to resume care of such children. [Citation.] The Court has given [the mother] more than ample time to avoid termination of her two children in foster care. She had made guarded progress. The real concern exists based on [the mother's] past actions and the present circumstances that any attempt for reunification over the next several months could easily overwhelm [the mother] and jeopardize her progress.

Janetta's parental rights were properly terminated under section 232.116(1)(g).

III. When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). If we determine Janetta's parental rights were properly terminated under section 232.116(1)(g), we need not address her claims regarding section 232.116(1)(d).

IV. Janetta contends termination of her parental rights is not in the children's best interests. She asserts she has a bond with the children. Janetta

testified she had put her substance abuse problems behind her and was now ready to parent the children.

Even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the children. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of children a court looks to the children's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional condition and needs of the children in deciding whether to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

Termination of Janetta's parental rights is in the best interests of Nicole and Jessica. Janetta has put her own needs before those of the children throughout most of their lives. Her visitation with the children has been only sporadic, which raises doubts about her commitment to the children. For these reasons, we conclude termination is in the children's best interests.

We affirm the decision of the juvenile court terminating Janetta's parental rights to Nicole and Jessica.

AFFIRMED.