FILED
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CLERK SUPREME COURT

**IN THE COURT OF APPEALS OF IOWA**

No. 2-320 / 92-422

**IN THE INTEREST OF S.R. and S.W., Minor Children,**

**C.R.W., Mother,**

Appellant.

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Appeal from the Iowa District Court for Cass County, Gary K. Anderson, District Associate Judge.

The natural mother, C.R.W., appeals a judgment of the district court terminating her parental rights in her two minor children, S.R. and S.W. **AFFIRMED.**

Martin L. Fisher of Fisher, Fisher, & Fisher, P.C., Adair, for appellant.

Bonnie J. Campbell, Attorney General, John M. Parmeter, Special Assistant Attorney General, Judy Sheirbon, Assistant Attorney General, and James Barry, County Attorney, for appellee-State.

W. Ed Anstey of Anstey Law Firm, P.C., Atlantic, guardian ad litem for minor child S.W.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

**HAYDEN, J.**

C.R.W., the natural mother of S.R. and S.W., appeals a juvenile court decision terminating her parental rights to both children. C.R.W. challenges the sufficiency of the evidence to terminate her parental rights. In the alternative, C.R.W. argues the trial court should have transferred custody to the children's maternal grandparents rather than terminate her parental rights. The putative father of S.R. abandoned or deserted his child pursuant to Iowa Code section 232.116(1)(b) (1991), and did not appeal. The father of S.W. consented to the termination of his parental rights pursuant to Iowa Code section 232.116(1)(a) (1991), and did not appeal.

Our review of the trial court's findings in 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, 105 S. Ct. 1212, 84 L. Ed. 2d 353 (1985); Iowa R. App. P. 4. We give weight to the findings of fact of the juvenile court, but we are not bound by those determinations. In re W.G., 349 N.W.2d at 491-92; Iowa R. App. P. 14(f)(7).

S.R. was born May 25, 1987. Two to three months prior to the birth, C.R.W. was discharged from treatment services for chemical dependency because she failed to progress or attend the sessions. On October 25, 1989, S.R. was taken into protective custody because C.R.W. was jailed overnight. On November 19, 1989, and January 2, 1990, S.R.

was taken into protective custody because C.R.W. failed to pick up the child from the sitter. The court adjudicated S.R. to be a child in need of assistance on January 17, 1990, pursuant to Iowa Code section 232.2(6)(a), (b), (c)(2), and (j) (1989). Following this order, custody of S.R. still fluctuated between foster care, C.R.W., and the child's maternal grandmother.

S.W. was born October 23, 1990. S.W. was hospitalized on December 5, 1990, due to a failure to thrive. After S.W. was transferred to Children's Hospital in Omaha, C.R.W. refused housing next to the hospital, and rarely visited during the child's hospital stay. On February 6, 1991, S.W. was adjudicated a child in need of assistance pursuant to Iowa Code sections 232.2(6)(e) and (g) (1991). During this period of time C.R.W. was offered a myriad of services to help her, but she failed to complete or attend many of them.

In early July of 1991, C.R.W. disappeared, and both children remained in foster care. On October 31, 1991, C.R.W. finally contacted a caseworker and said she had been arrested on September 11, 1991, and was in jail awaiting sentencing. Petitions for the termination of C.R.W.'s parental rights with regard to both children were filed in September. On February 17, 1992, the juvenile court ruled it was in the best interests of both children to terminate the parental rights of C.R.W. and the fathers. C.R.W. has appealed and contends there is not clear and convincing evidence to support termination of her parental rights.

The primary concern in termination proceedings is the best interests of the children. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981); Iowa R. App. P. 14(f)(15). In deciding what is best for the children, we consider the parent's past performance because it "may be indicative of the quality of future care that parent is capable of providing." In re Dameron, 306 N.W.2d at 745 (citing In re O'Neal, 303 N.W.2d 414, 423 (Iowa 1981); In re Ponx, 276 N.W.2d 425, 433 (Iowa 1979)).

Clear and convincing evidence supports the grounds upon which the trial court based the termination of C.R.W.'s parental rights. The juvenile court properly terminated parental rights between C.R.W. and S.R. pursuant to Iowa Code sections 232.116(1)(b), (c), (d), (f), and (k) (1991), and between C.R.W. and S.W. pursuant to 232.116(1)(d) and (g).

C.R.W. has been unable to provide or maintain a stable and nurturing environment for her children. Her criminal behavior and absences have caused the children to frequently be placed in foster care. C.R.W. has failed to apply for necessary assistance for her children, and has failed to assume responsibility for herself and her children.

Evidence also shows C.R.W. lacks the ability or willingness to respond to services. C.R.W. has a long history of poor compliance with various assistance programs designed to improve her parenting skills and provide for

the physical and emotional needs of her children. The services offered to C.R.W., which she failed to use consistently, included marital and family therapy, chemical dependency treatment, financial assistance, and homemaker services. The mother's uncooperative nature has been detrimental to the children's best interests. We hold the juvenile court properly terminated C.R.W.'s parental rights.

We also find the mother's second argument to be without merit. C.R.W. contends the court erred in failing to grant custody of the children to their maternal grandparents. The court has the authority to place the children with the Department of Social Services, a suitable agency, or a relative or other suitable person. Iowa Code § 232.117(3)(a)-(c) (1991). However, the grandparents were not a party to the termination proceeding and did not intervene in the case. The natural parent cannot assert, in proceedings involving the termination of parental rights, any alleged right of the grandparents. In re Robbins, 230 N.W.2d 489, 494 (Iowa 1975).

We hold termination of C.R.W.'s parental rights is supported by clear and convincing evidence. We affirm the district court's termination order.

**AFFIRMED.**