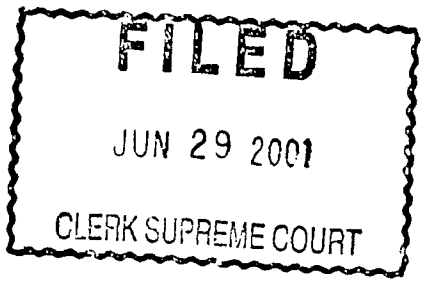
IN THE COURT OF APPEALS OF IOWA

No. 1-319 / 00-2056
Filed June 29, 2001



IN THE INTEREST OF G.F.,
Minor Child,

H.W.F., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Thomas W. Mott, District Associate Judge.

The father of minor child G.F. appeals a juvenile court order terminating his parental rights. **AFFIRMED.**

Samuel Z. Marks of Marks & Swartz Law Office, Urbandale, for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney General, and Martha Johnson, Assistant County Attorney, for appellee-State.

Christine Bisignano, West Des Moines, guardian ad litem for minor child.

Donald F. Starr, Des Moines, for mother.

Heard by Mahan, P.J., and Zimmer, and Miller, JJ.

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ZIMMER, J.

The father of minor child Genesis appeals a juvenile court order terminating his parental rights. The father contends the juvenile court erred in finding there was clear and convincing evidence for termination under Iowa Code section 232.116(1)(g) (1999). We affirm.

I. Background Facts and Proceedings. Genesis was born in December of 1998. At birth, Genesis tested positive for cocaine and was removed from her mother's care. Genesis was adjudicated a child in need of assistance (CINA) and her temporary physical care was awarded to her father, Harry.

Genesis was removed from Harry's care in August 1999 after Harry allowed unauthorized, unsupervised contact between Genesis and her mother, MarrGenea. Genesis was returned to Harry's care in September 1999 with the understanding that Harry was not to allow any contact between Genesis and MarrGenea. However, Genesis was removed from Harry's care in February 2000 after he again allowed MarrGenea to have contact with their daughter in direct violation of a court order. Genesis tested positive for cocaine after this unauthorized contact.

Harry was allowed supervised visitation with Genesis on a weekly basis beginning in March 2000. These visits took place in the home of Harry's mother, with whom Harry claimed to reside. The worker who supervised these visits suspected Harry was not being honest about living in the home as the room he claimed to be his appeared to be occupied by someone else. Harry also did not demonstrate knowledge of where necessities, like toiletries, were kept. He would also ring the doorbell before entering the home and seemed hesitant to answer

the phone. Harry later admitted that he had moved in with MarrGenea in May 2000.

During the visits, Harry had difficulty providing basic care to Genesis. He had difficulties bathing her and styling her hair, giving in to Genesis when she would resist these activities. On one visit, he allowed female relatives to provide the majority of Genesis's care although he had been instructed not to do so. He would oftentimes seem unprepared for visits, not having the proper food or providing Genesis with shoes.

Harry began individual counseling with David Greenwood in April 2000. Greenwood did not believe that Harry was taking seriously both his counseling sessions and his need to establish himself as Genesis's primary caregiver. At one session, Harry fell asleep while watching a film on parenting. Greenwood also observed that Harry had a tendency to treat Genesis as a much older child. Additionally, Harry would minimize the seriousness of leaving Genesis with MarrGenea and was in denial about her substance abuse.

In June 2000, the State filed a petition seeking the termination of both parents' rights. The juvenile court terminated Harry's parental rights, concluding his positive attributes did not outweigh his attempts to deceive social workers, his refusal to accept MarrGenea's substance abuse problem, and his inability to protect Genesis from that environment. Harry has appealed, arguing there is not clear and convincing evidence to support the termination.

II Scope of Review. We review proceedings to terminate a parent-child relationship de novo. *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa Ct. App. 1998). Our primary concern is the best interests of the child. *Id.* We look at both the

child's long-range and immediate interests in making this determination. *Id.* We necessarily consider what the future likely holds for the child if returned to his or her parent. *In re K.F.*, 437 N.W.2d 559, 560 (Iowa 1989). "Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that parent is capable of providing." *Id.* (citation omitted). The grounds for termination must be shown by clear and convincing evidence. *Id.*

III. Sufficiency of the Evidence. Harry contends the State failed to meet its burden of proof. The juvenile court terminated his parental rights pursuant to Iowa Code section 232.116(1)(g). Section 232.116(1)(g) provides for termination of parental rights if:

> (1) The child is three years of age or younger.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
> (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

Harry argues the last element of the section has not been met.

Under Iowa Code section 232.102(5), custody of a child should not be transferred to a parent when the child cannot be protected from some harm that would justify a CINA adjudication. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). The threat of such harm will justify a termination under Iowa Code section 232.116(1)(g). *Id.* This harm need not be the same harm that led to the child's initial out-of-home placement, so long as the threat of harm is proved by clear and convincing evidence. *Id.*

We find there is clear and convincing proof that Genesis would be subjected to harm if she was returned to Harry's care. Harry has demonstrated an inability to accept the seriousness of MarrGenea's substance abuse and the impact it has had on Genesis. He acknowledges he left Genesis in MarrGenea's care on two occasions despite knowing that he was not to do so. He was only caught by coincidence; on both occasions a DHS worker visiting the homes of MarrGenea's associates saw MarrGenea with Genesis. Harry attempted to rationalize leaving Genesis in her mother's care by explaining that it was an emergency situation. The "emergency" was an unscheduled work-related meeting, illustrating Harry's tendency to prioritize work over the well-being of his daughter. Harry also minimized the danger in which he placed Genesis by telling his counselor that DHS was simply over-reacting to the incident, despite the fact that Genesis tested positive for cocaine after the contact with her mother.

Harry argues that his parental rights should not be terminated because he has remedied the problems that led to Genesis's removal. Specifically, he claims that he will not permit unauthorized contact between Genesis and her mother. However, he has made such promises before. Harry's past neglect of Genesis is evidence of the quality of his future care. *See K.F.*, 437 N.W.2d at 560. Despite his assurances, Harry has repeatedly demonstrated an unwillingness to put Genesis's needs over his relationship with MarrGenea. He has repeatedly stated his desire to raise Genesis with MarrGenea as a family. He also moved in with MarrGenea in anticipation of this occurring.

Although Harry has a bond with Genesis, and perhaps was improving his parenting skills, we find it is in Genesis's best interest that Harry's parental rights

be terminated. While the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills," this patience has been built into the statutory scheme of chapter 232. *In re A.C.*, 415 N.W.2d 609, 613-14 (Iowa 1987). Children should not be forced to endlessly await the maturity of a natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1987). "At some point, the rights and needs of the child rise above the rights and needs of the parent." *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997).

Genesis needs stability in her life. Harry has been unable to provide such stability. Genesis is now in a pre-adoptive placement that provides this stability. Allowing Genesis the opportunity to be adopted is in her best interests.

We affirm the decision of the juvenile court terminating Harry's parental rights to Genesis.

AFFIRMED.