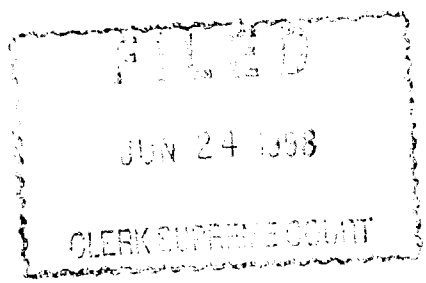
IN THE COURT OF APPEALS OF IOWA

No. 8-310 / 98-0058
Filed June 24, 1998



IN THE INTEREST OF N.M., K.J.M., and D.R.B.,
Minor Children,

K.M., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Karla J. Fultz, Associate Juvenile Judge.

The mother of three minor children appeals a juvenile court ruling terminating her parental rights. **AFFIRMED.**

Matthew S. Sheeley of Parrish, Kruidenier, Moss, Dunn & Montgomery, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, and Jaki L. Livingston, Assistant County Attorney, for appellee State.

Nicole C. Garbis Nolan, Youth Law Center, Des Moines, guardian ad litem for minor children.

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

HUITINK, J.

Kurene is the mother of Charlene, born in July 1984, Nicholas, born in April 1990, Kelli, born in June 1992, and David, born in December 1994. This case does not involve Charlene. The children's fathers have not been involved in their lives and are not part of this appeal.

Kurene has a history of substance abuse. In September 1992, Kurene was on probation for a charge of possession of a controlled substance with intent to deliver. She violated the terms of her probation and was sent to prison. Charlene went to live with Kurene's mother, Durene. Nicholas and Kelli were placed in foster care in October 1992. Nicholas and Kelli were adjudicated to be children in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2), (j), and (n).

Kurene was released from prison in January 1993. She then entered residential treatment for substance abuse. After she completed treatment in February 1993 she began supervised visitation with the children. Kurene had a relapse of her substance abuse problems in September 1993. She entered residential treatment in October 1993. After treatment Kurene participated in services.

In April 1994, Charlene, Nicholas, and Kelli were returned to Kurene's care. She had problems developing effective discipline for the children. Nicholas was diagnosed with attention deficit hyperactivity disorder and post-traumatic stress disorder. In August 1994, the Department of Human Services (DHS) issued a founded report of denial of critical care against Kurene because Charlene was exposed

to illegal drugs while in her care. The children were removed from Kurene's home in September 1994 and placed with Durene.

Kurene gave birth to David in December 1994. She was able to provide adequate care for David. Kurene participated in visitation with the other children at Durene's home. She was able to provide clean drug tests for a period of time.

In May 1996, Nicholas and Kelli were returned to Kurene's care. Charlene remained in the care of Durene. Kurene received intensive in-home services. Kurene had problems providing adequate supervision for the children. DHS issued a founded report of denial of critical care due to an incident where Kurene did not provide appropriate supervision of Nicholas and he was caught shoplifting. Kurene did not see a need to improve her parenting skills. She had a positive drug test in September 1996, and Nicholas, Kelli, and David were removed from her care. The children were placed in foster care with a family who is interested in adopting them. David was adjudicated to be a child in need of assistance.

The juvenile court required Kurene to provide two clean drug tests before she could begin visitation. This was later changed to require Kurene to provide clean drug tests over a period of thirty days. Kurene was also required to obtain substance abuse and psychological evaluations. She had a substance abuse evaluation, but it was considered to be invalid because she was not truthful. A psychosocial evaluation showed Kurene had a narcissistic personality disorder.

Kurene had a visit with the children on Christmas 1996. She has had no subsequent visits because of an inability to provide consistent clean drug tests. Kurene completed an out-patient substance abuse treatment program in February 1997. She did not follow recommended aftercare treatment.

In April 1997, the State filed a petition to terminate Kurene's parental rights to Nicholas, Kelli, and David. The juvenile court found Kurene had failed to cooperate with services to alleviate her drug problems and assist her in developing parenting skills. The court concluded Kurene's parental rights should be terminated under sections 232.116(1)(b), (e), (g), and (k). The court concluded termination was in the best interests of the children. Kurene appealed.

The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). 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 child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Kurene contends termination of her parental rights is not in the best interests of the children. She points out that her parental rights to Charlene were not terminated. Charlene is in the care of Durene and Kurene has continued visitation with this child. Kurene asserts termination of her parental rights will sever the relationship Nicholas, Kelli, and David have with Charlene. Kurene states the

children are very close and need to continue to have a sibling relationship. She also states she has a close bond with the children.

The evidence shows Nicholas, Kelli, and David have not lived in the same home as Charlene since May 1996. The termination of Kurene's parental rights to Nicholas, Kelli, and David would not separate the children because they are already separated. The children do still enjoy visiting together. If the present foster family adopts Nicholas, Kelli, and David, they have indicated they would continue to allow these children to visit with Charlene.

In addition, the children need stability which Kurene has not been able to provide. Kurene has not been able to set aside her problems with substance abuse and place the children's needs first. Based on these factors, we determine termination is in the best interests of the children.

We affirm the decision of the juvenile court.

AFFIRMED.