FILED
AUG 25 1994
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 4-327 / 94-322

IN THE INTEREST OF J.M., G.M. and T.M., Minor Children,

T.M., Mother,

Appellant.

Appeal from the Iowa District Court for Linn County, Patrick R. Grady, Judge.

Tammy appeals the termination of her parental rights pursuant to Iowa Code section 232.116(1)(g) (1993). **AFFIRMED.**

Patrick C. Brau of Crawford, Sullivan, Read, Roemerman & Brady, P.C., Cedar Rapids, for appellant.

Bonnie J. Campbell, Attorney General; Gordon E. Allen, Deputy Attorney General; Kathrine S. Miller-Todd, Assistant Attorney General; and Karla J. Henderson, Assistant County Attorney, for appellee State.

Daniel W. Willems, Cedar Rapids, for minor children.

David Nadler, Cedar Rapids, for father of J.M. and G.M.

Considered by Donielson, C.J., and Habhab and Huitink, JJ.

DONIELSON, C.J.

Tammy, age nineteen, gave birth prematurely to twin boys, Jessie and Gage, on March 6, 1992. Hospital personnel expressed concern about Tammy's ability to care for the infants, especially for Gage, who was experiencing serious health problems. Tammy did not complete the hospital's program for children with special health needs. A founded abuse report of denial of critical care resulted after Tammy slept through the apnea monitor alarm and a home study indicated Tammy's home (which she shares with her father, brother, sister, and numerous dogs, cats, and hampsters) was unsanitary and not a fit environment for infants.

Tammy voluntarily placed the children in foster care before their release from the hospital. Pursuant to Tammy's stipulation, Jessie and Gage were adjudicated CINA on May 13, 1992. On June 22, 1992, following a disposition hearing, the juvenile court continued their placement in foster care. The court also adopted the case permanency plan which, among other things, called for Tammy to learn and demonstrate the ability to meet the infants' needs and to establish a clean, safe environment for at least three months.

In June, Tammy reported the house was still a safety and health hazard. Her irregular visits with Jessie and Gage were held elsewhere. The home was still unsafe in

September. Also in September, she began receiving individual parenting sessions on a weekly basis.

Tammy was referred for a psychiatric evaluation when service providers became concerned with her inability to understand and retain information she received in parenting skills training. The December evaluation report indicated Tammy had a severe developmental learning disability and that her capacity for insight and self-regulation was "very significantly compromised." The report noted Tammy "needs clear guidance, strict behavioral limits and supportive counseling." The psychiatrist recommended Tammy not be given custody. Service providers did not know what they could do beyond the individualized, specific, and repetitive instruction and training they were providing.

Tammy gave birth to another son, Tevyn, on February 19, 1993. She voluntarily placed him in foster care on February 22. He was adjudicated CINA on April 2, 1993. He continued in foster care after a disposition hearing.

Tammy missed several visits with the children. She was unable to demonstrate appropriate parenting skills in spite of step-by-step instruction. A petition to terminate Tammy's parental rights to Gage and Jessie was filed on May 10, 1993. On June 27, 1993 a petition to terminate Tammy's rights to Tevyn was filed.

The combined termination hearing was held on January 4, 1994. Service providers testified Tammy was incapable of caring for the three boys. Testimony also indicated that,

in October 1993, the animal control shelter was called to remove a dead dog from Tammy's residence. Trash and animal urine and feces were everywhere inside the house. Upon responding to the second call to collect a dead dog from Tammy's house, citations were written for abuse of animals and six dogs, five cats, sixteen hamsters and one rat were impounded. The housing inspector found the house unfit for human habitation and the family was ordered to clean it up or vacate. Tammy's father testified five people worked for five days to remove nine tons of waste from inside the home. He testified the house was still not safe for children since it needs a new roof and furnace. Tammy testified the house was now cleaned up and she believed she could care for her sons. The juvenile court entered an order terminating Tammy's parental rights with respect to Jessie, Gage, and Tevyn.

Tammy appeals, contending the State did not make reasonable efforts to reunite the family in light of her special needs. She also argues the evidence in not clear and convincing the children cannot be returned to her.

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; Iowa R. App. P. 14(f)(7).

The 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).

> We look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. 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 the parent is capable of providing. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

In re R.M., 431 N.W.2d 196, 199 (Iowa App. 1988) (citing Dameron, 306 N.W.2d at 745).

We recognize a parental interest in the integrity of the family unit. In re. I.L.G.R., 433 N.W.2d 681, 689 (Iowa 1988). Such interest is not absolute, however, and the State has a duty to see every child receives proper care and treatment. Id. The legislature has provided the time period for rehabilitation of the parent. Iowa Code § 232.104 (1993). The period has reasonable limits "because patience on behalf of the parent can quickly translate into intolerable hardship for the children." In re R.J., 436 N.W.2d 630, 636 (Iowa 1989). "Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable." In re L.L., 459 N.W.2d 489, 495 (Iowa 1990).

We recognize Tammy's low mental functioning alone is not sufficient basis for terminating her parental rights.

In re J.W.D., 456 N.W.2d 214, 218 (Iowa 1990) (citing In re Wardle, 207 N.W.2d 554, 563 (Iowa 1973)). Yet it is a major contributing factor to her inability to perform essential parental duties such as proper supervision and provision of adequate food, clothing, or shelter. See Iowa Code § 232.2(6)(n). "Termination is appropriate when the parent lacks the capacity to meet the child's present needs as well as the capacity to adapt to the child's future needs." In re E.B.L.,.501 N.W.2d 547, 551 (Iowa 1993) (citing In re A.M.S., 419 N.W.2d 723, 733-34 (Iowa 1988)). Tammy has demonstrated her inability to learn and perform basic parenting skills after repeated, one-on-one sessions with service providers. Her inconsistency and lack of motivation in visitation is further evidence of her inability to care for these children if they were returned to her.

We find the State has met its burden of proving all the elements of Iowa Code section 232.116(1)(g) by clear and convincing evidence. We also find the State has made every reasonable effort to provide Tammy with parenting skills and to return the children to her, consistent with their best interest. See Iowa Code § 232.102(9). Consequently, we find termination of Tammy's parental rights to Gage, Jessie, and Tevyn appropriate and necessary.

AFFIRMED.