IN THE COURT OF APPEALS OF IOWA

No. 0-62 / 99-278
Filed February 23, 2000

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CLERK SUPREME COURT

**IN THE INTEREST OF
A.L.C. AND B.M.C.,
Minor Children,**

S.C., Mother,

Appellant.

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

Mother appeals from the court's termination of her parental rights. **AFFIRMED.**

Richard Kallsen, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Dewey Sloan, Assistant County Attorney, for appellee-State.

Robert Tiefenthaler, Sioux City, guardian ad litem for the minor children.

Considered by Huitink, P.J., and Streit and Miller, JJ.

HUITINK, P.J.

I. Background Facts and Proceedings.

Sandra C. is the mother of A.C. and B.C. Both children were removed from her home at the time of her arrest on September 18, 1997, for possession of methamphetamines. They were subsequently adjudicated children in need of assistance based not only on Sandra's arrest but also on findings of parental neglect. *See* Iowa Code §§ 232.2(6)(b) & (6)(c)(2). Custody of the children was placed with the department of human services (DHS) for foster care.

Sandra pled guilty to the delivery of a controlled substance charge and received a twenty-five-year suspended sentence with five years probation. As a condition of probation, Sandra was required to reside at the House of Mercy, a residential treatment program in Sioux City. Following a January 1998 dispositional hearing, the children were returned to Sandra's custody subject to her residence at the House of Mercy. The court further ordered that should Sandra leave or be involuntarily discharged from the House of Mercy, custody of A.C. and B.C. would revert to DHS for foster care. In May of 1998 the children were returned to foster care following Sandra's discharge from the House of Mercy for rule infractions.

The State initiated termination proceedings on August 26, 1998. The statutory grounds for termination cited by the State were the continued existence of circumstances necessitating adjudication of the children as children in need of assistance and that the children could not be safely returned to Sandra's custody. *See* Iowa Code §§ 232.116(1)(c),(d), & (g).

The State's termination petition was heard on December 14 and 30, 1998. In an order filed January 29, 1999, the court found Sandra, despite a wide variety of services, had failed to correct those circumstances necessitating the underlying adjudication and had also failed to maintain significant and meaningful contact with her children. The court accordingly terminated Sandra's parental rights and those of each of the children's putative fathers pursuant to Iowa Code sections 232.116(1)(b)(c)(d) & (g).

On appeal Sandra contends the State failed to meet its burden to prove by clear and convincing evidence that termination of her parental rights was necessary. Sandra also argues there was not clear and convincing evidence that A.C.'s and B.C.'s best interests were served by termination of her parental rights.

II. Standard of Review.

Our review of juvenile matters is de novo. *In re N.W.E.*, 564 N.W.2d 451, 453 (Iowa App. 1997). We accord weight to the findings of the trial court, especially when considering the credibility of witnesses, but we are not bound by them. *Id.*

The controlling standard applied in cases involving the termination of parental rights is the best interests of the child involved. *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.K.B., 572 N.W.2d 600, 601 (Iowa 1998) (quoting *In re C.M.W.*, 503 N.W.2d 874, 875 (Iowa App. 1993)). The grounds alleged for the termination of parental rights must by statute be proven by clear and convincing evidence. *See* Iowa Code § 232.114(5)(c).

It is well established that there exists a parental interest in the integrity of the family unit; nonetheless we also are cognizant that this interest is not absolute, but rather may be forfeited by certain parental conduct. *In re Dameron*, 306 N.W.2d at 745. The State has the duty to assure that every child within its borders receives proper care and treatment, and it must intercede when parents abdicate that responsibility. *Id.* DHS must make reasonable efforts to reunify the family and provide services. *See* Iowa Code § 232.102(5); *In re A.Y.H.*, 508 N.W.2d 92, 95 (Iowa App. 1993).

III. Sufficiency of the Evidence.

Iowa Code section 232.116(1)(d) permits the juvenile court to terminate the parent-child relationship if the child has been adjudicated in need of assistance, the child has been placed out of the parent's custody for more than six consecutive months, and there is clear and convincing evidence the parent has not maintained significant and meaningful contact with the child and has made no reasonable effort to resume care of the child.

Iowa Code section 232.116(1)(d)(3) provides:

> "[S]ignificant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in

the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

In its findings of facts and conclusions of law, the juvenile court stated:

> [A.C.] and [B.C.] were removed from Sandra's care sixteen months ago and adjudicated to be Children in Need of Assistance over fourteen months ago. Though the removal was because of an arrest, it soon became apparent that Sandra did not have the ability to provide for the children or give them the supervision which would reasonably facilitate their normal development. Prior to Sandra's arrest, the children had been living in a near continuous state of neglect potentially injurious to their lives. [B.C.] had been diagnosed as a failure to thrive child. Prior to and since the removal, Sandra has been offered substantial services to correct the circumstances which led to the adjudication, including reunification in a residential treatment setting for intense parental education. She has been given extraordinary consideration for her past opposition to change as well as her repeated failures with services. Notwithstanding these intense services, it was necessary to remove the children from Sandra a second time. The children are still likely to suffer the harmful effects of Children in Need of Assistance should they be returned to the parental care of Sandra.
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> After the last removal of both children in May 1998, Sandra was provided with visitation and additional services. She was noncompliant with services and was lethargic in her visitations. She has never provided for these children physically or emotionally. Over the last eight months, she has done nothing to make either the services she has received nor the contact she has had with the children particularly significant nor meaningful as to the children's present welfare or their future.

Our review of the record discloses abundant evidence supporting the juvenile court's findings of fact. Despite the department of human services' best and reasonable efforts, Sandra has failed to maintain significant and meaningful contact with her children as those terms are defined in the above statute. We also conclude Sandra has been allowed sufficient time and services to address

those parental deficiencies resulting in A.C. and B.C.'s adjudication. We affirm on this issue.

Our decision to affirm on this ground eliminates the need to consider Sandra's challenge to the other grounds on which the district court relied. *See In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996) (holding when the juvenile court terminates parental rights on more than one statutory ground, this court can affirm by upholding only one ground cited by the juvenile court).

IV. Best Interests of the Children.

Sandra argues the State failed to prove termination of her parental rights was in the best interests of her children citing the unreliability of testimony that reunification would result in psychological trauma to the children. She also cites the foster parents' change of heart concerning their initial decision to adopt the children and the absence of an immediately available adoptive placement as factors weighing against termination. Contrary to Sandra's claims, the evidence indicating the children cannot be safely returned to her care is neither unreliable or speculative. We have also held the State is not required to show, and the juvenile court is not required to find, a child is adoptable as a predicate to termination of parental rights. *In re T.C.*, 522 N.W.2d 106, 109 (Iowa App. 1994). Termination is in the best interests of the children. We affirm on this issue.

The judgment of the juvenile court is affirmed in its entirety.

AFFIRMED.