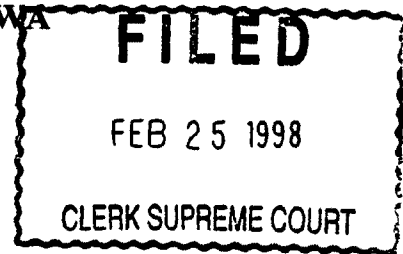


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IN THE COURT OF APPEALS OF IOWA

No. 7-794 / 97-1394
Filed February 25, 1998



IN THE INTEREST OF
K.W. and D.W., Minor Children,

C.F., Mother,
Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, Gerald W.
Magee, Associate Juvenile Judge.

Mother appeals the juvenile court's order terminating her parental rights.

AFFIRMED.

Brian D. Miller of the Oltrogge Law Office, P.C., Clear Lake, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General,
and Paul L. Martin, County Attorney, for appellee-State.

Mark Young, Mason City, guardian ad litem for minor children.

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

HUITINK, P.J.

Cindy is the mother of David, born in March 1987, and Calvin, born in June 1989. The children's fathers have not been involved in their lives, and are not part of the present action.

The Department of Human Services (DHS) has been involved with Cindy since 1988, when she received two founded reports of denial of critical care for leaving David without adequate supervision. David was removed from the home for a period of time, and Cindy went to in-patient substance abuse treatment for cocaine and alcohol abuse.

After David was returned to Cindy, she participated in services. DHS issued a founded report of denial of critical care against Cindy in April 1989 because she engaged in reckless driving while David was in the car. Cindy was convicted of child endangerment due to this incident. Calvin was born prematurely in June 1989. Cindy admitted using cocaine during her pregnancy. DHS issued founded reports of denial of critical care against Cindy in March 1990 and June 1991. The juvenile case was closed in 1992.

Cindy married Dale. Their relationship has involved domestic violence. In June 1994, she pled guilty to public intoxication. In July 1994, she left the children in the care of an older sibling for three days. This older sibling reported Cindy was using illegal drugs and was physically abusing the children.

On August 11, 1994, Cindy voluntarily agreed to place the children in foster care. However, after a review hearing, the children were returned to Cindy's care, with continued services. In September 1994, David was left home alone. On another occasion, a younger sibling was left without adequate supervision. The children were again removed from Cindy's care on September 28, 1994. DHS issued a founded report of denial of critical care for failure to provide proper supervision.

On October 17, 1994, David and Calvin were adjudicated to be children in need of assistance. Cindy was ordered to participate in family therapy, obtain a substance abuse evaluation, and participate in any recommended treatment.

Cindy had a substance abuse evaluation in November 1994, which found she had cocaine and methamphetamine dependence in remission. Cindy later attended in-patient substance abuse treatment, but did not complete the program.

Cindy participated in individual counseling from April 1995 until September 1995. She participated in parent skill development sessions from May 1995 until November 1995. Cindy was in jail from November 1995 until February 1996 for driving without a license.

Cindy had supervised visitation with the children in November 1995. The children had increased aggression and negative behaviors after visits, and visitation was not reinitiated after Cindy was released from jail. Both children have expressed fear of Cindy.

The children have some behavioral problems. David has been diagnosed with post-traumatic stress disorder, anxiety disorder, and attention deficit hyperactivity disorder. The children have been involved with individual counseling. Calvin attends a day treatment program for children with problematic behavior.

At David's request, he began to have supervised visitation with Cindy in February 1997. David receives counseling to help him address issues raised by these visits. Calvin has indicated no desire to see Cindy, and in fact, has threatened to harm her. Cindy resumed participating in individual therapy in April 1997.

On March 19, 1997, the State filed a petition to terminate the parental rights of Cindy and the children's fathers. The fathers did not contest the termination. The juvenile court terminated Cindy's parental rights pursuant to Iowa Code sections 232.116(1)(c) and (e). The court determined termination was in the best interests of the children. Cindy has appealed the termination of her parental rights.

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 children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

Cindy contends there is insufficient evidence to show the children could not be returned to her care at the present time. She believes the State relied on extremely

stale information. She asserts the State did not present any evidence of her current situation.

When determining whether a child can safely be returned to a parent's custody the juvenile court can gain insight into the child's future from evidence of a parent's past performance because that performance may be indicative of the quality of future care the parent is capable of providing. *In re D.C.*, 436 N.W.2d 644, 645 (Iowa App. 1988). Thus, Cindy's history of caring for the children was an important factor for the juvenile court to consider.

Furthermore, there was little information about Cindy's current situation because Cindy had not been participating in services. There was no recent evidence of family therapy or substance abuse treatment because Cindy was not making any progress in these areas. Although Cindy had recently resumed individual counseling, she did not provide DHS with any report from her therapist and so there was no evidence she was addressing the issues of her past.

We conclude the State presented sufficient evidence to terminate Cindy's parental rights under section 232.116(1)(e). Cindy has not successfully completed substance abuse treatment. In addition, she has not demonstrated the parenting skills necessary to address the children's special needs. There is clear and convincing evidence the children could not be safely returned to her care.

When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the

juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996). We have already found Cindy's parental rights were properly terminated under section 232.116(1)(e), and, therefore, need not address her claims regarding section 232.116(1)(c).

We affirm the juvenile court termination of Cindy's parental rights to David and Calvin. We determine the termination is in the children's best interests.

AFFIRMED.