

IN THE COURT OF APPEALS OF IOWA

No. 4-558 / 94-0947

FILED

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CLERK SUPREME COURT

IN THE INTEREST OF N.W. and M.W., Minor Children,
D.W., Mother,
Appellant.

Appeal from the Iowa District Court for Scott County,
John G. Mullen, Judge.

Mother appeals from an order terminating her parental
rights pursuant to Iowa Code sections 232.116(1)(d),
232.116(1)(e), and 232.116(1)(h). **AFFIRMED.**

Donna M. Humpal of M.W. Liebbe Law Office, Davenport,
for appellant.

Thomas J. Miller, Attorney General, Gordon E. Allen,
Deputy Attorney General, Judy Sheirbon, Assistant Attorney
General, William E. Davis, County Attorney, and Gerda Lane,
Assistant County Attorney, for appellee State.

John Aitken of VanderVennet, Motto & Aitken, P.C.,
Davenport, for appellees minor children.

Heard by Donielson, C.J., Cady, J., and Schlegel, S.J.*

*Senior judge from the Iowa Court of Appeals serving
on this court by order of the Iowa Supreme Court.

CADY, J.

This is an appeal by the mother of two boys from an order by the juvenile court terminating her parental relationship. The parental rights of the father were also terminated. He does not appeal. The mother claims she was provided inadequate services to correct her parenting deficiencies and to resume her care of the children. On our review, we affirm the juvenile court.

Diana is the mother of Nicholas and Michael. Nicholas was born August 1, 1985, and Michael was born July 30, 1987. The children were adjudicated in need of assistance in 1991 and placed in foster care from January 1991 until December 1991. The case was closed in July 1992.

The children were again adjudicated in need of assistance in November 1992 after Diana left them alone in a park. The boys were assaulted by a man in her absence. The children were originally placed with Diana's parents, but were moved into foster care after Diana took them from her parents home. The juvenile court adjudicated the boys in need of assistance under Iowa Code sections 232.2(6)(c)(2) and 232.2(g)(h) (1991) based on their mother's lack of supervision and unstable lifestyle. These were the same grounds of the 1991 child in need of assistance proceeding. The children have remained in foster care since October 1992.

Diana was involved in an abusive codependant relationship with a man named John. She had other abusive

relationships with men, and struggled with an ongoing substance abuse problem. On November 17, 1992, the juvenile court entered an order adjudicating Nicholas and Michael in need of assistance based on their mother's lack of supervision and residence.

In a November 1992 report, Diana's caseworker recommended that Diana "become re-involved in ongoing counseling regarding her addictive relationship with John and its effects upon her lifestyles and choices." The case permanency plan called for Diana to follow through with recommendations. The case permanency plan was adopted in the juvenile court's December 8, 1992, dispositional order.

Diana was jailed on various charges from December 1992 through February 1993. In the months that followed Diana made progress. She found work and a residence. She visited the children regularly. The department contemplated returning the children to Diana. John, however, was scheduled to be released from prison in August 1993. The department expressed concerns about Diana's stability if he moved in with her. Diana was adamant that John would live with her.

At the August 2, 1993, review hearing, Diana was told that her children would not be returned to her because of her plan to resume living with John. In September, Diana canceled a two-day visit with Nicholas and Michael based on the false excuse that she needed to attend a funeral. In

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October, Diana walked out of a department staffing when confronted by workers. Diana did not contact her worker again until December 2, when she stated she had broken up with John and wanted to visit her sons. She did not attend the December 3 appointment. On December 14, Diana again contacted her worker and set up an appointment for December 15, but again did not attend.

Diana did attend the February 1994 review hearing, but had not visited Nicholas and Michael since October. Her caseworker suggested Diana seek counseling. The district court continued the children in foster care and ordered a petition for termination to be filed by the state or the guardian ad litem. Diana's worker next heard from her in April 1994 when Diana called to set up an appointment, and then failed to keep it.

The termination hearing was held on May 19, 1994. Diana testified that her problems with parenting were linked to her relationship with John. She testified that she had broken up with John and was ready to address her "codependency" problem. She testified she had gone to counseling for codependency in the past. She asked the court to allow her an additional six months to demonstrate that her children could be returned. She intended to get counseling for her codependency and to maintain her job and her apartment. Her caseworker recommended termination based on Diana's past performance and prior promises. Diana's fifteen-year-old daughter testified in favor of termination.

The juvenile court concluded that Diana loved her children, but found her last minute promises of reform insufficient in light of her history. The court entered an order terminating Diana's parental rights pursuant to Iowa Code sections 232.116(1)(d) (children adjudicated in need of assistance, removed from parental custody for six months, and parent has failed to maintain meaningful contact), 232.116(1)(e) (children more than four years of age, previously adjudicated in need of assistance, removed from parental custody for twelve months, and cannot be returned presently), and 232.116(1)(h) (children meet definition of in need of assistance based on finding of neglect and circumstances remain despite services) (1993).

We review termination cases de novo. Iowa R. App. P. 4. The facts and law are examined and the rights of the parties are adjudicated anew. In Interest of T.A.L., 505 N.W.2d 480, 482 (Iowa 1993). Weight is given to the factual determinations of the juvenile court, but we are not bound by them. Id.

When statutory grounds for termination are shown, our concern turns to the best interests of the child. Id. The best interests include both long-range and immediate interests of the child. Id. The long-range interests enable us to consider what the future holds for the child if returned to the parent. Id. A parent's past performance provides relevant evidence on this issue because it often reveals the quality of future care the parent is capable of providing. Id.

We are mindful of the parental interest in "preserving the integrity of the family unit." In re M.M., 483 N.W.2d 812, 814 (Iowa 1992); In re T.A.L., 505 N.W.2d at 483. It is not, however, absolute; and may be lost by certain parental conduct. In re T.A.L., 505 N.W.2d at 483. The statutory termination provisions are both preventative and remedial. In re L.L., 459 N.W.2d 489, 494 (Iowa 1990). They seek to prevent probable harm to the child. Id. They do not require delay until after the harm has happened. Id. The grounds to justify termination of parental rights must be shown by clear and convincing evidence. Id.

The juvenile court terminated Diana's parental rights pursuant to Iowa Code sections 232.116(d), (e) and (h). Although each section has separate statutory requirements which must be met to support termination of parental rights, Diana's first contention applies to each section. She claims the state failed to offer her adequate services to assist in improving her parenting skills to enable her to resume the care of her children.

We recognize the states' obligation to provide reasonable services to preserve the family. See In re C.D., 508 N.W.2d 97, 100-01 (Iowa App. 1993); In re C.L.H., 500 N.W.2d 449, 453 (Iowa App. 1993). In this case, however, it was not until the termination hearing that Diana expressed a willingness to address her codependency problem and to seek treatment and counseling. Under the circumstances, Diana's last minute request comes too late.

While the law demands a full measure of patience with a troubled parent who attempts to remedy a lack of parenting skills, a child should not be placed in endless limbo waiting for his or her parents to correct the problems which resulted in the loss of custody. In re B.K.J., 483 N.W.2d 608, 611 (Iowa App. 1992). Furthermore, the record discloses that aftercare treatment provided to Diana in 1992 and 1993 included counseling for codependency issues. Throughout the period of time the children have been absent from the home, Diana has been counseled against maintaining a relationship with John by service providers as well as her parents. She was also told of the risks involved in maintaining the relationship. She was told her boys would not be returned to her as long as she maintained her relationship with John. Until trial, Diana denied any problems and denied the need for counseling. We have reviewed all the services and find they were reasonable under the circumstances.

Finally, Diana argues the termination of her parental rights would be detrimental to the children due to the close parent-child relationship. We disagree. The children have been in foster care since October 1992. They have, at times, expressed a desire to be adopted. They want a permanent home. The bond between Nicholas and Diana stems in part, from his desire to protect her from abuse. This is not the type of bond to overcome termination, especially in light of the evidence that the boys are adoptable.

We have reviewed the entire record. We conclude clear and convincing evidence exists to terminate Diana's parental rights under sections 232.116(d), (e) and (h). We affirm the decision of the juvenile court.

AFFIRMED.