IN THE COURT OF APPEALS OF IOWA

No. 6-565 / 96-732

IN THE INTEREST OF K.M., J.M., C.M., N.M., and N.M., Minor Children,
J.M., Mother,
Appellant,

H.F., Father of N.M.,

Appellant.

FILED
OCT 25 1996
CLERK SUPREME COURT

Appeal from the Iowa District Court for Black Hawk County, Thomas N. Bower, District Associate Judge.

A mother appeals from the termination of her parental rights to her five children and the father to one of the children also appeals. **AFFIRMED.**

Carla Garrels Pearson, Cedar Rapids, for appellant mother.

Kellyann M. Lekar of Clark, Butler, Walsh & Hamman, Waterloo, for appellant father.

Thomas J. Miller, Attorney General, Katharine S. Miller-Todd, Assistant Attorney General, and Steve Halbach, Assistant County Attorney, for appellee State.

Decided en banc.

PER CURIAM

Joleen is the mother of Krystal, born in September 1985; Jaclyn, born in November 1988; Chantal, born in January 1991; Natasha, born in July 1993; and Nicholas, born in December 1994. Howard is the father of Nicholas.

The Department of Human Services (DHS) became involved with the family in 1992, when it issued a founded report of denial of critical care for lack of supervision. A second founded report of denial of critical care was issued in 1993, after one of the children started a fire in the home. Joleen did not voluntarily accept services.

Although she knew Robert, the father of Chantal, used crack cocaine, Joleen allowed him to take Chantal to California for an extended visit in late 1993. When Joleen went to retrieve Chantal, she took Jaclyn and Natasha with her. While there, Robert told Joleen he would beat her up unless she agreed to allow him to have oral sex with Jaclyn. Joleen stated that because she was afraid she allowed this to happen, and in fact observed Robert having oral sex with Jaclyn. Joleen stated Chantal had also reported she had been sexually abused. When Joleen returned to Iowa she reported this matter to DHS.

The four older children were placed in foster care on January 20, 1994. The children were subsequently determined to be children in need of assistance. Joleen attended a parent education/parent support group and a battered women's group, and received family centered services. She had a substance abuse evaluation, but refused

to sign a release of that information. Joleen had weekly supervised visits with the children. She had problems following through with recommendations. Social workers testified they had to remind Joleen at every visit to discipline the children and to keep hazardous materials out of reach. Joleen is moderately mentally retarded.

Krystal and Chantal have been diagnosed as having adjustment disorders. They have had continuing therapy. Jaclyn has been diagnosed as having post-traumatic stress disorder and attention deficit hyperactive disorder. In September 1994, she was removed from foster care and placed in inpatient treatment at the University of Iowa Hospital Child Psychiatric Unit. She was later transferred to Gerard of Iowa, a psychiatric medical institution for children. It is expected she will be eventually released to a group home.

After Nicholas was born in December 1994, he was also determined to be a child in need of assistance. He was placed in Joleen's care under DHS supervision. A visiting nurse was assigned to work with Joleen. Joleen continued to have problems applying what she learned from services. Her low-functioning level inhibited her ability to care for Nicholas. In August 1995, Nicholas was placed in foster care.

Nicholas' father, Howard, was previously incarcerated for possession of marijuana and possession of cocaine. He was released on parole in January 1994. Howard visited Nicholas until he was placed in foster care. Howard contacted DHS asking to have Nicholas placed in a different foster home. However, he refused to

accept services. Howard admitted to recently using crack cocaine, and was scheduled for a parole revocation hearing.

On October 12, 1995, the State filed a petition to terminate Joleen's parental rights to the five children, and Howard's parental rights to Nicholas. The juvenile court determined reasonable services had been offered to the family, and the parents still lacked the ability to care for the children. The court concluded it was in the best interests of the children to terminate the parental rights of Joleen and Howard. Joleen and Howard have each appealed.

I. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Our primary concern is the best interests of the child. *In re A.Y.H.*, 508 N.W.2d 92, 94 (Iowa App. 1994). Those best interests include the children's long-range as well as immediate interests. *Id.* The grounds for termination must be proven by clear and convincing evidence. *In re R.K.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995).

II. Joleen contends the State failed to present sufficient evidence to show that her parental rights to Jaclyn should be terminated. Dr. Marcia Flugsrud-Breckenridge and Kristin Danielson, who worked with Jaclyn at Gerard, testified it would be detrimental to Jaclyn to terminate Joleen's parental rights because Jaclyn had a fantasy she would one day be reunited with her mother.

We conclude the State presented clear and convincing evidence Joleen's parental rights to Jaclyn should be terminated. Joleen had no understanding of the

extent of Jaclyn's problems. Joleen stated she though Jaclyn was only homesick, and her problems would end if she were returned home. Furthermore, Joleen refused to accept any responsibility for her part in the sexual abuse of Jaclyn. Thus, the possibility remained that Joleen would be unable to protect Jaclyn in the future. We think it is clear Jaclyn could not be returned to Joleen's care.

III. Joleen also claims it is not in the best interests of Krystal, Chantal, Natasha, and Nicholas to terminate her parental rights. She states she wanted to parent the children and was cooperative with services. She states DHS did not give her an opportunity to show she could parent the children.

Although Joleen received numerous services, she was not able to implement what she had learned. Social workers testified they had to remind Joleen during each visitation to discipline the children and to keep hazardous materials out of reach. Unfortunately, Joleen never seemed to retain these recommendations from one week to the next. We find the children could not be safety returned to Joleen's care and termination is in the best interests of the children.

IV. Howard contends the juvenile court should not have terminated his parental rights to Nicholas. He states DHS did not make reasonable efforts to eliminate the need for termination of his rights. Reasonable services must be provided to attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994).

On our de novo review, we find Howard's parental rights to Nicholas could be properly terminated under Iowa Code sections 232.116(1)(c) and 232.116(1)(g). DHS offered services to Howard on more than one occasion. He did not give the social worker the opportunity to explain services, but was argumentative and refused to cooperate. It is clear Nicholas could not be placed in Howard's care in the near future. Howard admitted he would likely be returned to prison for parole violations. Also, Howard has not addressed his substance abuse problems. We find it is in Nicholas' best interests to terminate Howard's parental rights.

We affirm the decision of the juvenile court terminating the parental rights of Joleen and Howard to their children.

AFFIRMED.