

IN THE COURT OF APPEALS OF IOWA

No. 1-159 / 90-1623

FILED

APR 23 1991

CLERK SUPREME COURT

IN THE INTEREST OF A.K., A Child,

S.K., Mother,

Appellant.

78

Appeal from the Iowa District Court for Polk County,
Larry L. Eisenhauer, Juvenile Referee.

A mother appeals the termination of her parental rights. She challenges the sufficiency of the evidence to establish the child cannot safely be returned to her care.
AFFIRMED.

Timothy M. Duffy of Duffy & Addington, Des Moines, and
Dennis L. Eaton, Des Moines, for appellant.

Bonnie J. Campbell, Attorney General, and John M.
Parmeter and Kathrine S. Miller-Todd, Assistant Attorneys
General, for appellee State.

Considered by Donielson, P.J., and Schlegel and
Sackett, JJ.

DONIELSON, P.J.

The child in question, A.K., is a boy born in February 1989. His parents have never been married to each other, although they cohabited in the past. At the time of A.K.'s birth, his father was incarcerated for killing A.K.'s sibling. The father has been incarcerated throughout the child's life, and it appears the two have never met.

A.K. lived with his mother, S.K., until July 1989, when he was approximately five months old. At that time, he was placed in emergency foster care because he was found to have an unexplained fractured rib; the injury was two to four weeks old. It has never been determined whether this injury was inflicted by the mother or by her then-boyfriend. In addition to suffering injury while in his mother's care, there is evidence A.K. was fed only one time per day. The child was subsequently adjudicated a child in need of assistance (CINA). He has remained in foster care continuously since July 1989.

Since A.K.'s removal, his mother has failed to maintain a stable residence or stable employment. She has a history of relationships with assaultive and abusive men. Social workers doubt she is capable of protecting either herself or her children from violence at the hands of such men. The mother failed to cooperate with offered services through Broadlawns Medical Center and Parent Growth Patterns. The mother began the Parent/Infant Nurturing

Center's (PINC) intensive parenting program three times but never completed the program.

During the later months of A.K.'s foster care, the mother missed many scheduled visits with him. (She visited A.K. only four of a possible twenty times between April and September of 1990) When she did visit, it appeared she did not know how to interact appropriately with the child. Workers assigned to the case determined S.K. continued to maintain a relationship with her latest abusive boyfriend and that she gave that relationship a higher priority than her relationship with A.K.

In July 1990, the State filed a petition to terminate the parental rights of the mother and the natural father. After a hearing, the juvenile court did terminate the parental rights of both parents. The juvenile court relied on Iowa Code section 232.116(1)(g) (1989 Supp.), which permits termination if a child is three years old or younger, has been adjudicated CINA, has been in foster care for at least six of the last twelve months, and cannot safely be returned to the parents' care. The juvenile court noted that the supervision issues leading to A.K.'s emergency removal and CINA adjudication have never been resolved. It also noted S.K. has not demonstrated that she is prepared to have the child returned or that she could protect him from the harms for which he was originally adjudicated CINA.

The mother has appealed the termination. The father has not appealed.

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984), cert. denied, 469 U.S. 1222, 105 S. Ct. 1212, 84 L. Ed. 2d 353 (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.

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); see also In re A.C., 415 N.W.2d 609, 613 (Iowa 1987).

The mother challenges the sufficiency of the evidence to establish the child cannot safely be returned to her care. She relies primarily on the written recommendation of Dr. Sheryl Leytham, her therapist, who did not recommend termination but rather suggested continued opportunity for the mother to receive therapy and to work through the PINC

program. Dr. Leytham's recommendation was based upon recent progress she had noted in the mother. However, it is apparent the therapist had not been made aware of several changes in S.K.'s circumstances which undercut the noted progress. Furthermore, Dr. Leytham did not testify that the mother was presently capable of caring for A.K., nor was Dr. Leytham able to determine when the mother might be capable of parenting in the future.

There is really no dispute that the statutory elements of termination pursuant to section 232.116(1)(g) have been met. A.K.'s mother does ask however that she be given more time to become a responsible parent. For more than one year, S.K. has been given numerous services and resources to help her become a capable and responsible parent. Special opportunities were developed in order to more closely meet S.K.'s needs and abilities. S.K. has been unable to or has failed to utilize those services to accomplish her stated goal. Iowa courts have been told, "plans which extend the twelve-month period during which parents attempt to become adequate in parenting skills should be viewed with a sense of urgency." In re A.C., 415 N.W.2d at 614. This court does view A.K.'s situation with urgency and we will not require A.K. to wait any longer for the maturity of his mother. See In re T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). We affirm the juvenile court's termination of parental rights.

AFFIRMED.