FILED
DEC 29 1993
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-493 / 93-275

IN THE INTEREST OF K.B., K.B., and K.B., Minor Children,

A.B., Mother,

Appellant.

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

The mother appeals the termination of her parental rights to three of her minor children. **AFFIRMED.**

Becky Fitz Flores, Davenport, for appellant.

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

Stephen W. Newport of Newport & Newport, Davenport, for intervenors-appellees.

Bobbi Alpers, Jill Cirivello, and Janice Roemer, Davenport, guardians ad litem.

Heard by Oxberger, C.J., and Sackett and Habhab, JJ.

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HABHAB, J.

A.B. is the mother of five children. Only three of these are the subject of this appeal: Krystal, born January 25, 1987, Kinina, born November 28, 1987, and Kayla, born January 13, 1990.

The mother voluntarily placed Krystal and Kinina in foster care in April 1990. She had moved out of an apartment she shared with her alcoholic father. She had no permanent home and had been leaving the children with various friends. The Department of Human Services (DHS) was unsuccessful at contacting her on several occasions. The maternal grandmother contacted DHS to report that the mother planned to move to Texas with her oldest and youngest daughters, and expressed the belief that the mother could not care for her children.

In June 1990, CINA petitions were filed on behalf of the three children. In July, Kayla was left with her wheelchair-bound grandmother for several days and again with a neighbor for a long period of time. A child abuse referral was received both times. Kayla was placed in foster care.

At an August 1990 adjudicatory hearing it was reported the mother had missed four out of twelve visits with her children, and had been late to three. The mother's interaction with her children during visits was unsatisfactory and the children displayed behavioral problems after visits. The children were found to be CINA. Continued foster care was ordered.

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The mother was unresponsive to services and a petition to terminate parental rights was filed in February 1992. At the hearing, DHS, CASA and Lutheran Social Services recommended termination. The district court ordered that the mother be given sixty days to show compliance with the case plan and cooperation with services.

The court, in an order filed June 5, 1992, continued the termination hearing ninety days to determine whether the mother could maintain recent changes in her living situation and parenting ability. Additionally, the court ordered an extension of visitation to allow the mother more freedom to demonstrate her ability to appropriately interact with her children.

However, by November, the progress the mother made deteriorated. In particular, the mother had given birth to another baby and could not demonstrate any skills in coping with all her children. Her children's behavioral problems became more severe with increased, unsupervised visitation.

The mother's parental rights were terminated on January 5, 1993, pursuant to Iowa Code sections 232.116(1)(e) (Krystal and Kinina); 232.116(1)(g) (Kayla) and 232.117. The mother appeals. We affirm.

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984) cert. denied sub nom. J.G. v. Tauke, 469 U.S. 1222 (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 mother's parental rights to Krystal and Kinina were terminated pursuant to Iowa Code section 232.116(1)(e) (1991). Iowa Code section 232.116(1)(e) permits the juvenile court to terminate the parent-child relationship if the court finds all of the following have occurred:

> (1) The child is four years of age or older.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
> (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

The mother's parental rights to Kayla were terminated pursuant to Iowa Code section 232.116(1)(g) (1991). Section 232.116(1)(g) is similar to 232.116(1)(e) except it is applicable to a child three years of age or younger and it requires custody of the child to have been transferred from the child's parents for at least six months of the last twelve months, or for the last six consecutive months.

The mother admits the children have been adjudicated children in need of assistance and that they have been out of the home for a period of time sufficient to meet the statutory requirement. However, the mother argues there is not clear and convincing evidence the children cannot, at the present time, be returned to her custody.

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The mother argues she has shown an ability to maintain a stable home and a job. She asserts she has complied with services and the case plan despite a new pregnancy and a two-hour drive to get to visits. Finally, she asserts that she has participated in self-initiated parenting classes and has tended to the physical, mental and emotional needs of her new baby.

Reports from the social workers show the mother returned to her old patterns around October 1992. She continued to exercise visitation, but her attendance at her individual sessions with social workers, where she would discuss personal issues or parenting issues, became very sporadic. Correspondingly, the social workers were noting less appropriate interaction with children, the mother was inattentive to parenting responsibilities, and was having difficulty in managing the children. The mother became unwilling to try new techniques and failed to exercise parenting skills.

The record also shows that despite the mother's admission her father is an inappropriate caretaker, the visiting nurse, Renee Wallace, found the father caring for the mother's infant boy on Nov. 13, 1992. CASA counselor Peggy Hunter found the father caring for the infant boy on Nov. 21, 1992.

Based on all the evidence, we conclude, despite all the years of services provided by different agencies, the mother still has not acquired the skills necessary to

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satisfactorily care for all four of her children in such a way as to keep them safe from harm.

Having determined there is clear and convincing evidence to support the termination, we look now to whether the best interests of the child would be served by terminating the mother's parental rights.

Our supreme court has said a child should not be forced to endlessly suffer the parentless limbo of foster care. In re D.J.R., 454 N.W.2d 838, 845 (Iowa 1990). To continue to keep children in temporary foster homes is not in their best interests. In re J.L.P., 449 N.W.2d 349, 353 (Iowa 1989). The amount of time normally for children to be in foster care is prescribed by the termination statute.

It is unlikely in the foreseeable future this mother will be able to provide the care necessary for these three daughters. These girls have already been in foster care for over three years. We agree with the juvenile court the best interest of Krystal, Kinina and Kayla would be served by terminating the parental rights of A.B. We affirm the juvenile court's decision to terminate A.B.'s parental rights.

AFFIRMED.

Oxberger, C.J. concurs; Sackett, J. specially concurs without opinion.