FILED
MAY 28 1992
CLERK SUPREME COURT

**IN THE COURT OF APPEALS OF IOWA**

No. 2-142 / 91-1611

**IN THE INTEREST OF E.D.D. AND M.K.D., Minor Children,**

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**J.M.D., Mother,**
**Appellant.**

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Appeal from the Iowa District Court for Woodbury County Juvenile, Brian L. Michaelson, Juvenile Referee, and William E. Adams, District Associate Judge.

Mother appeals from the termination of her parental rights. **AFFIRMED.**

Richard L. McCoy, Sioux City, for appellant.

Bonnie J. Campbell, Attorney General, John M. Parmeter, Special Assistant Attorney General, and Charles K. Phillips, Assistant Attorney General, for appellee State.

Debra Y. Lulf, Sioux City, guardian ad litem for the children.

Heard by Hayden, P.J., and Sackett and Habhab, JJ.

**PER CURIAM**

The sole issue in this appeal is whether there is clear and convincing evidence supporting the trial court's decision to terminate appellant mother's parental rights to children born in 1987 and 1988. The rights of the father are not at issue in this appeal. We affirm.

The Iowa Department of Human Services has been involved with this family since before the birth of the second child. On September 9, 1987, the birth mother and Edward Dayton[1] were taken to a hospital after the mother attempted suicide. As a result of the suicide attempt, a denial of critical care report concerning Edward was founded by the Department of Human Services. This family was then offered services through the Department of Human Services. A decision was made to leave the child in his parents' home.

On December 14, 1987, Edward was adjudicated a child in need of assistance pursuant to Iowa Code section 232.2(6)(c)(2) (1987), which provides:

> 6. "Child in need of assistance" means an unmarried child:
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> * * *
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> c. Who has suffered or is imminently likely to suffer harmful effects as a result of:
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> (2) The failure of the child's parent, guardian, or custodian to exercise a reasonable degree of care in supervising the child.

Temporary care, custody, and control of Edward remained

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1. This is not the boy's real name.

with his parents subject to protective supervision by the Iowa Department of Human Services. The family was cooperating with the parent survival program which had helped them find a home. Homemaker services were also provided. Counseling was dropped because they could not afford $7 a session.

The case plan prepared in September 1987 was updated in July 1988. The update showed the parents to be capable of caring for Edward, with most of the responsibility for the care being taken by his father. The update also indicated the birth mother had a passive/aggressive attitude toward services. The family needed a conservator.

A report filed in connection with the parent survival program indicated Edward had been doing well since July 1988. His parents had participated regularly in parenting classes, although they had missed homemaker appointments, kept a disorderly household, and could not manage their money.

On October 16, 1988, Edward's mother told members of her church she had thought of smothering Edward. She also threatened suicide. Edward's mother was involuntarily committed to a mental health unit. She was eight and one-half months pregnant. Edward remained with his father until the father voluntarily placed him in foster care. On October 21, 1988, Edward was placed in emergency foster care after the issuance of an ex parte removal order. The

mother delivered her daughter, Melissa Dayton[2] on October 27, 1988. On October 28, 1988, an ex parte order was issued placing Melissa in emergency foster care. On November 17, 1988, Melissa was adjudicated a child in need of assistance pursuant to Iowa Code section 232.2(6)(b) (1987), which provides:

> 6. "Child in need of assistance" means an unmarried child:
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> * * *
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> b. Whose parent, guardian, or other custodian has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

Temporary care, custody, and control of both children was transferred to the Iowa Department of Human Services for placement in foster care.

In September 1989 a trial home placement began. The children returned to foster care in November because of increasing concerns for the children as expressed by the Department of Human Services.

In May 1990 the State filed a petition to terminate the parental rights of both parents. In June 1990 Edward's and Melissa's parents separated and their marriage has since been dissolved. In September 1990, after several continuances, the case continued to trial against the mother only. The juvenile court found grounds existed for the termination of the mother's parental rights. An order was entered by the juvenile referee terminating parental

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2. This is not the girl's real name.

rights on November 13, 1990. The mother appealed to the district court. An associate district court judge affirmed the juvenile court, but not until September 11, 1991. It is from the district court affirmation that the mother now appeals.

Our scope of review is de novo. See In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the finding of the trial court, especially as to the credibility of witnesses, but we are not bound by them. Id. at 745.

Our supreme court has often recognized there exists a parental interest in the integrity of the family unit, but that interest is not absolute. Id. It may be forfeited by certain conduct. Id. The State has the duty to see that every child within its borders receives proper care and treatment, and must intercede when parents neglect that responsibility. See In re I.L.G.R., 433 N.W.2d 681, 689 (Iowa 1988). Every child deserves a safe, healthy and stimulative environment in which to grow and mature. In re J.W.D., 456 N.W.2d 214, 217 (Iowa 1990).

The evidence convinces us that Edward and Melissa will suffer harm if returned to their mother. Edward and Melissa's mother has attempted suicide while a caretaker of Edward and while pregnant with Melissa. She considered smothering Edward. The homemaker testified that during her two-year involvement, there was no improvement in the

mother's parenting skills. The homemaker envisioned Edward and Melissa facing the dangers of neglect and lack of supervision if returned to their mother. Insight from the parent's past performance may be indicative of the quality of future care the parent is capable of providing. See Dameron, 306 N.W.2d at 745. Therefore, we find the State has met its burden of showing by clear and convincing evidence these children cannot be returned to their mother's care. See In re T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). We affirm.

**AFFIRMED.**