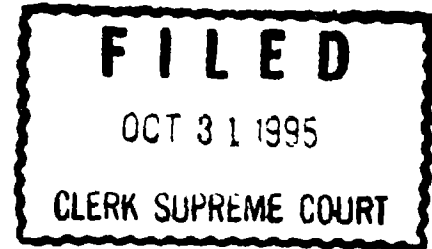


IN THE COURT OF APPEALS OF IOWA

No. 5-503 / 95-739

IN THE INTEREST OF T.M.M., A Minor Child,
T.R., Mother.
Appellant,
G.M., Father.
Appellant.



Appeal from the Iowa District Court for Polk County, Karla J. Fultz, Judge.

Natural parents appeal from an order terminating their parental rights pursuant to Iowa Code section 232.116(1)(c) (1995) (sibling adjudicated in need of assistance after a finding that child was physically or sexually abused or neglected as a result of the acts or omissions of one or both parents and circumstances remain despite services). **AFFIRMED.**

Robert E. Tucker, Des Moines, for appellant mother.

William G. Brewer of Brewer & Sinclair, West Des Moines, for appellant father.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney General, and Judy Sheirbon, Assistant Attorney General, for appellee State.

Shobhana Kasturi of Youth Law Center, Des Moines, for appellee minor child.

Considered by Sackett, P.J., and Habhab and Huitink, JJ.

PER CURIAM.

Tessie and Gary, the birth parents of Tessie Marie, born September 14, 1994, appeal from an order terminating their parental rights under Iowa Code section 232.116(1)(c) (1995). Tessie contends there is not clear and convincing evidence she cannot adequately parent the child and the circumstances leading to finding Tessie Marie was a child in need of assistance continue and reasonable services have been offered. Gary contends he has not been given a chance to show he has changed and he can parent Tessie Marie after he is released from incarceration. We affirm.

Termination of parental rights may not occur except on the showing of one or more statutory grounds the legislature has established. *In re L.H.*, 480 N.W.2d 43, 47 (Iowa 1992). Parents have a fundamental liberty interest in the integrity of the family unit. *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S. Ct. 1388, ____, 71 L. Ed. 2d 599, 606 (1982). The fundamental liberty interest does not evaporate because the parents have not been model parents. *Id.* Grounds supporting the termination of parental rights must be proven by clear and convincing evidence. *In re T.A.L.*, 505 N.W.2d 480, 483 (Iowa 1993); *In re D.T.*, 418 N.W.2d 355, 356 (Iowa App. 1987).

We review de novo, Iowa R. App. P. 4, but give weight to the findings of the juvenile court as to credibility of witnesses. Iowa R. App. P. 14(f)(7).

When Tessie Marie was born, Tessie was incarcerated following a plea of guilty to child endangerment and Gary was incarcerated on a burglary conviction.

Tessie and Gary have had their parental rights terminated to four other children born to them. The Department of Human Services has been involved with this family since 1989. The Department contends, despite its efforts, Tessie and Gary will not be able to care for Tessie Marie. Reviewing the record, we cannot ascertain if the services offered failed because they were not tailored to this family's needs or if they failed because the parents failed to cooperate in utilizing the services offered. When services fail, it is easy to blame the parents. The parents have a number of deficiencies, but when the State has expended the resources it has on this family and the family fails and the services offered do not correct the problems, we must continue to look at the services offered and ask why they have failed.

Tessie Marie was born in University Hospitals in Iowa City and removed from her mother's care and placed in foster care the day after she was born. There immediately followed a hearing to confirm the foster placement and, within two months, there was a finding Tessie Marie was a child in need of assistance under Iowa Code sections 232.2(6)(b), 232.2(6)(c), and 232.2(6)(n). The petition for termination of parental rights was filed one week before the child was found to be a child in need of assistance and came on for hearing two months later.

Tessie Marie has never been in the care of either parent. The State relies extensively on the history of the parents' relationship with the other children in asking for termination of Tessie Marie's parental rights.

Tessie has a problem with substance abuse. She has been in various treatment programs. Tessie's visitation with Tessie Marie was contingent on her providing a urine sample that showed she was not using drugs. Tessie provided a number of samples. Some tested negative and others tested positive. Tessie continues to have therapy with the Polk County Mental Health Facility. She has minimal support aside from her family. Tessie lived with her mother for a while, but her stepfather insisted she leave. Tessie lived with a sister and intends to live with Gary's mother.

The Department is of the opinion Tessie has made no progress and is the same person she was before, and the problems that existed and led to the termination of her four older children continue to exist. Tessie was still on probation at the time of the hearing.

There is evidence Tessie loves Tessie Marie and understands the child's basic needs. Tessie does not have her own home and apparently has not requested assistance in obtaining a home so she can care for Tessie Marie. She contends the instability in housing is because of factors beyond her control.

Gary, who is incarcerated, has attended a sixteen-hour class in life skills and a sixteen-hour class in parenting given by the Iowa Western Community College and has certificates showing he has met the requirements of the classes. While incarcerated, Gary has attended Alcohol Anonymous meetings and has completed a four-month treatment program at Clarinda. He believes he will be released in one year.

We have carefully considered the arguments and the finding of the juvenile court and find no reason not to affirm.

AFFIRMED.