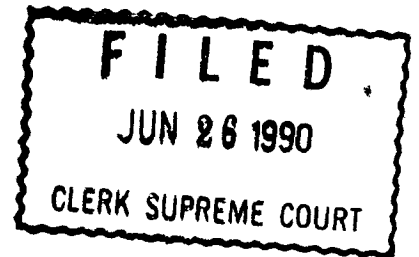


IN THE COURT OF APPEALS OF IOWA

No. 0-186 / 89-1842



IN THE INTEREST OF N.D., A Child,
C.D.S., Natural Mother,
Appellant.

77

Appeal from the Iowa District Court for Black Hawk
County, Stephen C. Clarke, Juvenile Referee.

The mother of a child appeals the juvenile court order
terminating her parental rights. **AFFIRMED.**

Sara A. Kersenbrock, Waterloo, for the appellant
mother.

Thomas J. Miller, Attorney General; Gordon E. Allen,
Deputy Attorney General; and Judy Sheirbon, Assistant
Attorney General; for the appellee State.

Heard by Donielson, P.J., and Schlegel and Habhab, JJ.

SCHLEGEL, J.

The mother of N.D. appeals a juvenile court order terminating her parental rights. We affirm.

The child in question is a girl born in May 1987. Her parents have never been married to each other.

Due to the eighteen-year-old mother's pending criminal charges and generally chaotic life, the child was almost immediately adjudicated CHINA and placed in foster care. The child has been in foster care continuously since early June 1987.

In June 1987, less than one and one-half months after the child's birth, the mother was convicted and sentenced to prison for two counts of second-degree burglary, one count of second-degree arson, and one count of false use of a financial instrument. (These crimes were committed during her pregnancy; the child's father was also implicated in most of the crimes.) The mother has been incarcerated continuously since June 1987, either at the women's reformatory or at a residential facility. At trial time, she was in the women's reformatory. During her incarceration she has incurred an escape conviction and numerous serious disciplinary reports. While in the residential facility she could have exercised substantial visitation with the child; she did exercise some visitation, but she also chose to spend some of the available time with three different boyfriends rather than with the child.

Social workers testified that the mother has made no progress in learning parenting skills. They also characterized the mother as extremely immature and irresponsible.

In March 1989, the State filed the present petition to terminate the parental rights of both parents. 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)(e), which permits termination if a child has been adjudicated CHINA, has been in foster care for twelve of the last eighteen months, and cannot safely be returned to the parents' care.

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

The mother challenges the sufficiency of the evidence to establish that the child cannot safely be returned to her care. She also contends the termination should be invalidated because the Iowa Department of Human Services did not adequately fulfill its statutory mandate to provide services and try to reunite the family.

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.

Iowa Code section 232.116(1)(e) (1989) permits the juvenile court to terminate the parent-child relationship if the child has been adjudicated in need of assistance, has been placed out of the parent's custody for more than twelve of the last eighteen months, and there is clear and convincing evidence that the child will suffer harm specified in Iowa Code section 232.2(6) (1989) if returned to the parent. See In re K.L.C., 372 N.W.2d 223, 227 (Iowa 1985). The mother contends that there is not clear and convincing evidence that N.D. will suffer the harm specified in section 232.2(6) if returned to her care.

Iowa Code section 232.2(6) provides in part:

"Child in need of assistance" means an unmarried child:

(b) Whose parent, guardian, or other custodian has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

(c) Who has suffered or is imminently likely to suffer harmful effects as a result of:

(1) Conditions created by the child's parent, guardian, custodian; or

(2) The failure of the child's parent, guardian, or custodian to exercise a reasonable degree of care in supervising the child.

N.D. has been in foster care for a majority of her life. The mother has had several opportunities to obtain a earlier release from the correctional facility. However, due to her own undisciplined behavior she has remained locked away from her child far longer than necessary. There is also evidence that during the times she was released from her incarceration on weekend passes she chose to spend that time with several different boyfriends rather than with her child.

This child should not be forced to endlessly await the maturity of her mother. In Interest of T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). Termination must occur if twelve to eighteen months have elapsed since the child was removed from the home and the parent still cannot take care of the child. Id. Evidence of the parent's past performance may be indicative of the quality of future care he or she is capable of providing. In the Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

We are sympathetic to the mother's troubled childhood and realize this is often a major cause of a parent's inability to care for her child. However, we must consider the child's best interests and the danger to the child. N.D. appears to have established a good relationship in her foster home. The mother has not made any progress or shown a desire to place the child's interests above her own. We hold that clear and convincing evidence existed to terminate the mother's parental rights.

The mother also contends the Iowa Department of Human Services did not perform its duty to facilitate the reunion of the family. The mother was offered parenting classes and given opportunities to visit her child and build a relationship. She did not take advantage of these opportunities. The Department cannot drag a parent to her classes or force a parent to be more concerned about her child than her own personal interests. We affirm the juvenile court's termination of the mother's parental rights.

AFFIRMED.