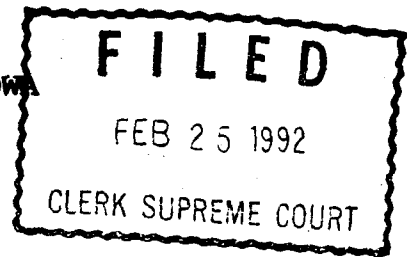


IN THE COURT OF APPEALS OF IOWA

No. 2-063 / 91-1411



IN THE INTEREST OF A.P., A Child,
D.P., Mother,
Appellant.

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

The natural mother appeals from the termination of her
parental rights. **AFFIRMED.**

Carrie E. Long, Bettendorf, for appellant.

Bonnie J. Campbell, Attorney General; John M. Parmeter,
Special Assistant Attorney General; and Charles K. Philips,
Assistant Attorney General, for appellee, the State of
Iowa.

Cynthia Z. Taylor, of Dwyer, Wing, Zamora, Taylor &
Walters, Davenport, for appellee, the child A.P.

Considered by Oxberger, C.J., and Hayden and Habhab,
JJ.

HABHAB, J.

The child in this case is A.P., born August 19, 1989. The mother is D.P. and the father is unknown. D.P. was married at one time, and she has two children from the marriage. Her parental rights to those children have been terminated.

When A.P. was born, his two half-siblings had been in foster care for about a year. Because of incarceration, D.P. was unable to care for them. As to those children, there is evidence of inappropriate sexual behavior on their part, which is an indication they were sexually abused.

D.P. has been convicted of prostitution and other offenses. In addition, she has a history of substance abuse and has absented herself from her child for extended periods of time. During the times she has been gone, she has left A.P. with an inappropriate caretaker. Apparently there was a shooting at one of her caretaker's while A.P. was there.

A.P. was removed from the caretaker's residence and placed in foster care on January 19, 1990, pursuant to a court-approved temporary placement. On February 23, 1990, the juvenile court adjudicated A.P. a child in need of assistance and placed him in foster care. He has remained there or in residential placement since. A case permanency plan was prepared. D.P. was directed to visit A.P., to remain sober and drug-free, to establish an appropriate residence, to avoid criminal activity, to maintain a

daytime job, and to meet with case workers to assess her progress. The plan was later amended, directing D.P. to learn to make adequate child care arrangements, to show that she is able to take care of A.P.'s medical needs (he has asthma), and to attend parenting classes.

A petition for termination of her parental rights and the rights of the unknown father was filed. The petition was based on Iowa Code section 232.116(1)(b) (parent has abandoned child), (f) (child has been adjudicated to be in need of assistance, parental rights with respect to another family member have been terminated, parent continues to lack ability or willingness to respond to services, and additional period of rehabilitation would not correct situation), and (g) (child in need of assistance three years old or younger who has been transferred from parents' custody for at least six months cannot be returned there).

After trial, the juvenile court terminated the parental rights of both D.P. and the unknown father. It transferred the child's guardianship and custody to the human services department. The juvenile court based its termination ruling on findings that for the past year D.P. had been either incarcerated, on work release, or on parole; she had made no progress on any of the case permanency goals; she had failed or refused to meet with the social workers on her case; at times, she had been absent and her whereabouts unknown; she had only sporadic visits with A.P.; she had abandoned A.P.; and her parental rights with respect to

A.P.'s half-siblings had recently been terminated. D.P. has 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 to Dameron, 306 N.W.2d at 745); see also In re A.C., 415 N.W.2d 609, 613 (Iowa), cert. denied, 458 U.S. 1008 (1987).

I. Abandonment.

D.P.'s main argument on appeal is the juvenile court's termination decision is not supported by clear and convincing evidence. She contends she did not abandon the

child, but, rather was incarcerated. Her argument is not supported by the facts in the record.

The record reveals that from January 17, 1990, to March 13, 1990, and from May 3, 1991, to August 15, 1991, the social workers had no idea where D.P. was. Nor does it appear D.P. made any effort to contact them.

D.P. was released from Mitchellville on April 25, 1991. She had one visit with the child and then was not seen again by either the child or her case worker until shortly before the termination hearing of August 20, 1991. During this time, she was scheduled to have weekly contact with her case worker and weekly visits with the child. She also missed a CINA review hearing. Hence, not only did D.P. absent herself from her child by virtue of her criminal activity, repeated incarcerations, and parole violations, she also, in the course of this case, abandoned the child when not in jail. See generally In Interest of R.L.F., 437 N.W.2d 599 (Iowa App. 1989).

D.P.'s absences followed a period of time in which D.P. had been incarcerated and apparently became a stranger to her child. This was so despite efforts to hold visitation in Mitchellville. According to one worker's calculation, of the nineteen months before termination, D.P. had been incarcerated fourteen of them.

Whether a parent has forgone parental responsibilities is one of the key determinations of an abandonment case. Parental responsibilities include more than subjectively

maintaining an interest in the child. The concept requires affirmative parenting to the extent practical and feasible under the circumstances. In Interest of Goettsche, 311 N.W.2d 104, 106 (Iowa 1981). We determine there is clear and convincing evidence over the past two years D.P. has failed to engage in affirmative parenting to the extent practical.

II. Parent's Use of Services.

Section 232.116(1)(f) provides for termination of parental rights upon the finding of five (5) circumstances. One of those is where there has been a previous termination of parental rights of a sibling of the same family. Another is where "there is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation." D.P. asserts the services in place were not sufficiently responsive to her problems of alcohol abuse, drug abuse, and prostitution, and, therefore, a finding under this section could not properly be made.

The case plan addressed these problems. It provided for weekly N.A. meetings, vouched for by a sponsor, and that D.P. meet the requirements placed on her by her parole officer. D.P. was also required to maintain a residence and to prove she could feed the child. The case plan required her to provide the basics of child care. It was geared fairly specifically to the situation presented

here: a mother in constant trouble with the law, with problems of substance abuse, and a history of leaving her children with inappropriate caretakers.

We conclude that D.P. has made little, if any, progress since the previous terminations. She was jailed again for prostitution about when that order was issued. A year later work-release violations put her back in Mitchellville. She smuggled liquor back into the work-release center and drank it against the center's rules. Half a year later she hadn't seen her social worker or child for three months.

D.P. has not benefited from services. She has not taken advantage of services to improve her own situation or parenting skills since her previous terminations. Case plans involving N.A. meetings and specified tasks and goals have not worked. Additionally, the services of a parole officer did not help.

III. Parent-Child Relationship.

The evidence further shows the parent-child relationship has almost totally withered. During visitations, A.P. was withdrawn and emotionally "flat." D.P. had to be encouraged to interact with her son. She skipped almost three months of visitation after her release from incarceration. She was also absent for another lengthy period not due to incarceration.

We determine A.P. cannot be returned to the care of his mother. This two-year-old cannot be placed with an oft-incarcerated parent who has become a stranger to him. D.P. appears to have stopped trying to see him or to win him back. See generally In Interest of R.L.F., 437 N.W.2d 599 (Iowa App. 1989).

As we have stated so often, this child should not be forced to endlessly await the maturity of his mother. In re T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). Termination must occur if the specified time period has elapsed since the child was removed from the home and the parent still cannot take care of the child. See 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 re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

We determine the juvenile court's termination order is supported by clear and convincing evidence on all grounds. We affirm the juvenile court on all issues.

AFFIRMED.