

IN THE COURT OF APPEALS OF IOWA

No. 0-606 / 90-1004

FILED

DEC 27 1990

CLERK SUPREME COURT

IN THE INTEREST OF T.O., T.O., D.J., and V.J., Children;
STATE OF IOWA,
Appellant.

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

State appeals the juvenile courts determination that
there was not sufficient evidence to warrant termination of
parental rights. **AFFIRMED.**

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

Michael T. Hines of McCarthy & Lammers, Davenport, for
appellee mother.

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

PER CURIAM

This case involves three children, a girl born in October 1985 and boys born in October 1986 and October 1987. The children all have the same mother; the two younger children have the same father, while the paternity of the older child is uncertain. The three children involved here have all been in foster care continuously since June 1988.

The mother also has three older children. In April 1988, all three children involved here, plus two of the older children, were adjudicated to be children in need of assistance. It appears that all six children have been placed in foster care at various times.

In January 1990, the State filed a petition to terminate the parental rights of the mother and all relevant fathers with respect to the three children involved here, plus one of the older children. After a hearing, the juvenile court terminated the parental rights of the various fathers but declined to terminate the mother's parental rights with respect to any of the four children. The juvenile court relied on the mother's good faith attempts to improve her parenting ability, on her good visitation record, and on her success in recent months in maintaining a clean and stable home.

The State has appealed from the juvenile court's refusal to terminate the mother's parental rights with respect to the three youngest children. The State

challenges the sufficiency of the evidence to support the juvenile court's decision. The State notes evidence that the mother severely neglected the children and failed to protect them from harm; the State argues this evidence amply warrants termination with respect to the three youngest children. (With respect to the older child, the State does not appeal; the State notes there is substantial evidence of that child's bonding to the mother.)

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 1987).

The State contends the trial court erred in not granting the termination of parental rights. From our review of the record, we agree with the trial court that the mother has progressed steadily since the initial adjudication and that it would be in the children's best interest to return them to their mother.

The mother provided testimony from two witnesses, a counselor and a family life specialist. Both are convinced the mother is capable of providing a good home for the children. The mother has clearly worked very hard to correct her situation, and we believe the trial court was correct in refusing to grant the termination.

AFFIRMED.