FILED
DEC 14 1994
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 4-484 / 94-1136

IN THE INTEREST OF R.C.S., Minor Child,

V.M., Mother,

Appellant.

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

Mother appeals the district court's order terminating her parental rights to R.C.S. **AFFIRMED.**

Robert J. Rehan, Sioux City, for appellant.

Bonnie J. Campbell, Attorney General, Gordon E. Allen, Deputy Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Rhoda M. Tenuta, Assistant County Attorney, for appellee-State.

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

HUITINK, J.

Vicki appeals a juvenile court order terminating her parental rights to R.C.S., born in July 1987. Robert, the father of R.C.S., is not a party to this appeal. We affirm.

Vicki and Robert were divorced in Texas in 1988, and Vicki received physical custody of R.C.S. She moved to Sioux City in January 1991.

In February 1993 a Sioux City police officer found R.C.S. wandering alone around a gas station. Police discovered Vicki had left R.C.S. in the care of strangers at a nearby hotel. Police took R.C.S. to a shelter facility after she told them Vicki and her boyfriend Scott smoked marijuana.

During their investigation of the matter, the department of human services discovered R.C.S. was listed in the Texas Child Abuse Registry as a victim of sexual abuse by Robert. R.C.S. told her department caseworker she had also been sexually abused by Scott.

The State filed for temporary removal and also filed a petition alleging R.C.S. was a child in need of assistance (CINA). Vicki did not resist. The court ordered custody of R.C.S. remain with the department for placement in emergency foster care. It also ordered Vicki receive chemical dependency and psychological evaluations and have no contact with Scott. Vicki was allowed supervised visitation.

At a March 1993 adjudicatory hearing the court found R.C.S. was CINA pursuant to Iowa Code section 232.2(6)(b), 232.2(6)(c)(2), 232.2(6)(d), and 232.2(6)(n) (1991). The court ordered R.C.S. remain in the custody of the department for placement in family foster care.

Vicki entered a halfway house in March but left within days to move to California to live with Scott. The court ordered Vicki not be allowed contact with R.C.S. until she showed she was in substantial compliance with the case permanency plan. After returning to Iowa in September 1993 and completing an inpatient treatment program in November, Vicki was admitted to a halfway house. She left within a month without explanation.

In February 1994 Scott was convicted and incarcerated for the sexual abuse of R.C.S. In April the State filed a petition for termination of Vicki's and Robert's parental rights to R.C.S. pursuant to Iowa Code sections 232.116(1)(b), (c), (d), (e), (h), and (k).

At the June 1994 termination hearing social workers and caseworkers testified it was in R.C.S.'s best interests to terminate Vicki's parental rights. Vicki testified she has maintained her sobriety since February 1994. She testified she did not want her parental rights terminated but was unsure how long it would take to achieve a stable life. The court found clear and convincing evidence to terminate Vicki's paternal rights pursuant to Iowa Code section 232.116(1)(b), (c), (d), (e), (h), and (k) and to terminate

Robert's parental rights pursuant to Iowa Code section 232.116(1)(b).

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984) cert. denied sub nom. J.G. v. Tauke, 469 U.S. 1222 (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.

Our primary concern in termination proceedings is the best interest of the child. Iowa R. App. P. 14(f)(5); In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981). In deciding what is best for the child we look to the child's long-range as well as immediate interests. We also look to the past performance of the parent because it is an indication of the quality of care the parent is capable of providing in the future. In re A.M.S., 419 N.W.2d 723, 726 (Iowa 1988).

Vicki argues the department did not make reasonable efforts to reunite her with R.C.S. She contends she has attempted to comply with the case plan but has not been afforded enough time to make necessary changes in her life.

Vicki's claims are not supported by the record. The case permanency plan set out specific goals and responsibilities Vicki had to meet in order to regain custody of R.C.S. She failed to abstain from abusing drugs and alcohol and withdrew from several treatment programs.

She left halfway houses two times to reestablish a relationship with Scott, despite his sexual abuse of her daughter. On one occasion she left for California, did not return for four months, and did not maintain contact or even inquire about R.C.S.

Vicki acknowledges she cannot resume care of R.C.S. at this time and is unable to plan for the future. However, the crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. In re A.C., 415 N.W.2d 609, 613 (Iowa 1987). A child must not be forced to endlessly suffer the parentless limbo of foster care. In re L.S., 483 N.W.2d 836, 840 (Iowa 1992). A child deserves a safe, healthy, and stimulating environment in which to grow and mature. In re J.W.D., 456 N.W.2d 214, 217 (Iowa 1990).

At the time of the termination hearing, R.C.S. had been in foster care sixteen months. The statutory requirements for terminating Vicki's parental rights have been met. See Iowa Code sections 232.116(1)(c), (d), (e), (h), and (k). The best interests of R.C.S. require Vicki's parental rights be terminated. The decision of the juvenile court is affirmed.

AFFIRMED.

Habhab, J., concurs; Sackett, J., concurs specially.

SACKETT, J. (specially concurring)

I concur specially. The majority finds the child deserves security and it is in her best interests to terminate her parental rights.

The real question is whether this child has the better chance with her parental rights terminated in state care or with additional efforts being made to assist her mother, with whom she is bonded, in caring for her. Her mother is making progress and completed an alcohol treatment program. It is not clear whether, with additional help, she might be able to make a good home for this child.

In concurring with the majority, I labor under no false assumptions our terminating this child's parental rights assures she will have a fine adoptive home. There is testimony she is a great little girl, adoptable, and there are interested parties. This all comes in the record by way of very general testimony. However; the cruel fact is, a large number of children in this state whose parental rights have been terminated have never found adoptive homes and some have been placed for adoption in situations that are not satisfactory.

We seem to have adopted in the past decade the position that terminating parental rights saves children. And, I recognize it may be some children's only hope. But, I also recognize the legal severance of biological ties carries with it a number of problems and with foster care placements (this child has had two), we run serious risks

of harming children because they become unable to bond. This child is at the juncture. She is bonded with her mother, she is bonded with her first foster mother, who for reasons not entirely clear in the record is no longer her foster mother but continues to maintain nearly daily contact with her, and is to be commended for that. Hopefully, the future will allow this child to maintain that contact. The child is now in a second foster home and, if adopted, apparently will need to make another change. If not adopted, she may, before she is eighteen, move through various foster homes.

In voting to terminate, I have to trust the department of human services, in making the general statements about adoption which were relied on by the juvenile judge in ordering termination, will follow through and obtain a good adoptive home for this child with due haste. I am confident the juvenile judge will carefully supervise this case file to assure this goal is not forgotten. This child's problems are not cured by terminating her parental rights.