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CLERK SUPREME COURT
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IN THE COURT OF APPEALS OF IOWA

No. 3-100 / 92-1720

IN THE INTEREST OF S.B. and R.B., Minor Children,

C.B., Mother,

Appellant.

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

The natural mother appeals a juvenile court order terminating her parental rights to her two children. **AFFIRMED.**

John S. Pieters of Pieters, Pieters & Corzine, Waterloo, for appellant.

Bonnie J. Campbell, Attorney General; John M. Parmeter, Special Assistant Attorney General; and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee State.

Sharon Briner, Waterloo, attorney and guardian ad litem for minor children.

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

HABHAB, J. 000008

C.B. appeals the juvenile court order terminating her parental rights to her two children, S.B., born on October 26, 1983, and R.B., born on on October 28, 1986. T.B., the natural father of the two children, does not appeal the termination of his parental rights.

In June of 1984, the family resided in an apartment operated by Exceptional Persons, Inc. ("EPI"). Due to difficulties in caring for the children, and themselves, EPI began community support services and day care services. Visiting nurses, Homemakers, and AEA VII also provided services. In January of 1988, T.B. and C.B. separated. C.B. retained custody of the two children and continued to reside in an EPI apartment.

While in C.B.'s care, the children were often absent from their day care programs. Also, C.B. resisted assistance from EPI. She failed to administer the children's medication as directed and had difficulty disciplining the children. There were also problems associated with the children arriving to their day care programs dirty, hungry, and in the same clothes two and three days in a row.

In August of 1988, the juvenile court adjudicated S.B. and R.B. to be children in need of assistance ("CINA") pursuant to Iowa Code sections 232.2(6)(b) and (6)(c)(2) (1991). The court continued placement of the children with C.B., but made placement contingent on her living in the

EPI apartment and cooperating with EPI and the Department of Human Services ("DHS") in their monitoring and verification of the delivery of services.

Sometime in November of 1988, T.B. and C.B. got back together. EPI provided marital counseling. By August of 1989, the parents separated again. In 1991, the parents divorced.

In June of 1991, after being confronted with various rule violations, C.B. left the EPI apartment with the children and was not located for at least 43 hours. Both boys were ill and supposed to be on prescribed medication. The medication had not been given. The children were removed from C.B.'s custody and placed in foster care. C.B. has stated that, if given the opportunity, she would again secret the children away and attempt to hide them from both EPI and DHS.

C.B.'s relationship with EPI has continued to deteriorate. In November of 1991, EPI began to withdraw services with the intent of discontinuing them because of C.B.'s lack of cooperation and follow through.

On June 26, 1992, the State filed a petition for the termination of parental rights as to C.B. and T.B. The matter proceeded to a hearing where both the EPI program director and an EPI psychologist testified that the parents were unable to meet the needs of the children. C.B. testified she wished to have the children returned to her without any EPI involvement.

On September 28, 1992, the court issued an order terminating both parents' parental rights pursuant to Iowa Code sections 232.116(1)(c), (d), (e) and (h) (1991). Only C.B. appeals.

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.

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 Dameron, 306 N.W.2d at 745).

Iowa Code section 232.116(1)(e) (1991) permits the juvenile court to terminate the parent-child relationship if the court finds all of the following have occurred:

> (1) The child is four years of age or older.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

> (3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
> (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

C.B. does not dispute that the first three elements are met. C.B. argues the State has failed to prove by clear and convincing evidence the fourth element, that harm will come to the children if they are returned to her.

It is clear from the record that the mother is only able to care for these children with intensive supervision. Extensive services were provided by EPI in an attempt to keep this family together. C.B. was still unable to consistently care for these children. C.B. could not properly monitor medications or medical care, she could not understand unsafe conditions, and she could not follow through with discipline. She has demonstrated an inability to properly feed, clothe, bathe, stimulate, and supervise these children.

The children were removed from C.B.'s home after she attempted to hide them from DHS and EPI. C.B. now refuses to cooperate with EPI, which has resulted in EPI withdrawing its services. C.B. testified she wants her children returned without EPI involvement. The mother's limited abilities, coupled with her unwillingness to accept assistance, makes her incapable of caring safely for her children.

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We find clear and convincing evidence that S.B. and R.B. at the present time cannot be returned to the custody of C.B. We find the statutory grounds for terminating C.B.'s parental rights pursuant to Iowa Code section 232.116(1)(e) (1991) have been met. We therefore need not decide whether there are also statutory grounds for terminating C.B.'s parental rights pursuant to Iowa Code section 232.116(1)(c), (d) or (h) (1991).

Having determined there is clear and convincing evidence to support the termination, we look now to whether the best interests of the children would be served by terminating C.B.'s parental rights. C.B. argues that long-term foster care is an option which would allow her to continue her relationship with her children.

Our supreme court has said that a child should not be forced to endlessly suffer the parentless limbo of foster care. In re D.J.R., 454 N.W.2d 838, 845 (Iowa 1990). To continue to keep children in temporary foster homes is not in their best interests. In re J.L.P., 449 N.W.2d 349, 353 (Iowa 1989). The amount of time normally for children to be in foster care is prescribed by the termination statute. Cases which extend that time are viewed with a sense of urgency. In re A.C., 415 N.W.2d 609, 614 (Iowa 1987). There are times when extensions are appropriate, but in considering that, a judge must bear in mind that if an extended plan fails, that time must be subtracted from an already shortened life in a more permanent home. Id.

It is unlikely that C.B. will at anytime in the foreseeable future be able to provide the care needed for these children. Patricia Dierks, an EPI psychologist who had worked with C.B. since before the birth of S.B., testified C.B. had considerable deficits in the areas of judgment, reasoning, and insight which prevent her from being a satisfactory parent. Dierks stated C.B. could not meet the two boys' special needs and that the boys needed a stable, permanent environment which C.B. could not provide. Dierks further testified that C.B.'s inability to put her children's needs first and her inability to allow support personnel to help her sabotaged her parenting. Dierks knew of no services or programs or counseling which would be available to assist C.B. in putting the needs of her children first. Dierks felt that termination of parental rights, as opposed to long-term foster care, would be in the boys' best interests.

The program director of EPI, Linda Lu Thompson, who had worked with the family for over eight years, testified the boys had done very well in foster care, but that their behavior became troublesome around visits. They were agitated, nervous and aggressive. They needed reassurance that they would be picked up by the EPI staff. Also both boys' language skills decreased when they were around C.B. Thompson felt that long-term foster care would be very confusing to the boys and that termination of parental rights would be in their best interests.

The children are adoptable and their current foster parents have expressed an interest in adopting both boys.

Under these circumstances we find the best interest of S.B. and R.B. would be served by terminating C.B.'s parental rights. We recognize this termination does not carry with it any guarantees for a stable and permanent home for these children. However, we find it is in the children's best interests that the impediments to their forming new family relationships should be swept away. In re D.J.R., 454 N.W.2d 838, 845 (Iowa 1990). We therefore affirm the juvenile court's decision to terminate C.B.'s parental rights.

AFFIRMED.