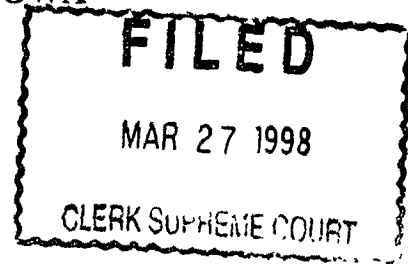


IN THE COURT OF APPEALS OF IOWA

000209

No. 8-124 / 97-1701
Filed March 27, 1998



IN THE INTEREST OF M.M., Minor Child,

C.M., Mother,
Appellant.

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

A mother appeals a district court order terminating her parental rights.

AFFIRMED.

Carrie E. Long of John T. Bribriesco Law Offices, Bettendorf, for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney
General, and William E. Davis, County Attorney, for appellee State.

Donna M. Humpal, Davenport, guardian ad litem for minor child

Considered by Huitink, P.J., and Streit and Vogel, JJ.

STREIT, J.

Carol, the mother of Mary, a minor child, appeals a juvenile court order terminating her parental rights to Mary. Carol asserts the State failed to offer adequate services to promote reunification. Carol has received parenting services for many years in three states without significant change and failed to support her child's allegations of sexual abuse. We affirm.

Mary, born October 27, 1987, was adjudicated a child in need of assistance in January 1995 after the Department of Human Services (DHS) determined Carol could not provide a minimally clean, healthy, and safe environment for her daughter. Carol had been dealing with social services in three states for over twenty years for a variety of problems regarding her other children, including failure to maintain a safe and healthy home and sexual abuse. Although Mary initially was allowed to remain in Carol's care, she was placed in foster care in October 1995 and has remained there. Several reports were made against Carol regarding sexual abuse of her children. The 1997 report concerning Mary recommended treatment and juvenile court involvement. At the removal hearing, the court noted Mary was displaying numerous symptoms typical of a child who had been sexually abused. After months of therapy, Mary finally revealed she had been sexually abused by a man her mother was living with at the time. Her claim is credible.

Carol failed to maintain a safe and healthy home. The children often were found living in squalor and sleeping and eating among animal feces. At least seven

child abuse reports were filed concerning Carol's children, six involving Mary. Social services reported Carol often gave Mary medicine for symptoms she did not have and forced her to wear glasses despite normal vision. After an examination at the University of Iowa hospital, DHS concluded Carol did not suffer from "Munchausen by proxy" syndrome, but many of her actions displayed similar characteristics. Mary exhibited none of her alleged illnesses after she was placed in foster care. In foster care, Mary bloomed both socially and physically. Her performance and popularity in school rose dramatically.

The court ended visitation between Carol and Mary in January 1997 because Carol took no responsibility for the deplorable conditions in her home and refused to believe Mary's claim she had been sexually abused. Carol was hostile to social workers and expressed resentment over the State's interference in her life. The State continued to offer Carol parenting classes but Carol failed either to attend or complete them. Carol stated she had taken a parenting class eleven times over the years.

Following a dispositional hearing in February 1997, DHS recommended termination of Carol's parental rights. The guardian ad litem filed a petition for termination on May 14, 1997. Following a hearing, the juvenile court entered its order on August 26, 1997. The court concluded Mary could not be safely returned to Carol's custody and would be subject to serious risk of emotional and physical abuse, neglect, and sexual abuse. The court found efforts at reunification had failed and such

failure was because of Carol's reluctance to recognize Mary's needs. It terminated Carol's parental rights under Iowa Code sections 232.116(1)(c, d, e, and h).

Appellate review of proceedings to terminate a parent-child relationship is *de novo*—the reviewing court may review the facts as well as the law and adjudicate the parents' rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). Weight is to be accorded the findings of the juvenile court, particularly with respect to the credibility of witnesses. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7).

The primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d at 274. Those best interests are to be determined by looking at the child's long-range as well as immediate interests. The court considers what the future likely holds for the child if that child is returned to his or her parents. Insight for that determination may be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing. *In re L.L.*, 459 N.W.2d at 489; *Dameron*, 306 N.W.2d at 743; *In re T.T.*, 541 N.W.2d 552, 555 (Iowa App. 1995). Case history records are entitled to much probative force when a parent's record is being examined. *Id.*

The Iowa Supreme Court has often recognized there exists a parental interest in the integrity of the family unit, but that such interest is not absolute but may be forfeited by certain conduct. *Dameron*, 306 N.W.2d at 743. The State has the duty

to see that every child within its borders receives proper care and treatment, and must intercede when parents abdicate that responsibility. *In re I.L.G.R.*, 433 N.W.2d 681, 689 (Iowa 1988). At a minimum, this care includes proper food, clothing, discipline, and supervision. “Every 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).

“[T]he general assembly has carefully crafted a legislative framework for State intercession into the parent-child relationship while protecting wherever possible the integrity of the family unit.” *I.L.G.R.*, 433 N.W.2d at 681. Under the statutes the State must act to prevent probable harm to a child and need not delay until harm has actually occurred. The termination statutes are preventative as well as remedial. *Dameron*, 306 N.W.2d at 743. “So the statutory presumption that a child's best interests will be served by leaving the child with the child's parent is not conclusive.” *L.L.*, 459 N.W.2d at 489. The requirement of Iowa Code section 232.116(1)(e)(4) is met when the child cannot be returned to the parental home because the definitional grounds of a child in need of assistance under section 232.2(6) exist. *In re A.M.S.*, 419 N.W.2d 723, 725 (Iowa 1988); *R.R.K.*, 544 N.W.2d at 274. If any one of the grounds listed in section 232.2(6) can be proven by clear and convincing evidence, there is a sufficient basis for termination. *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990); *R.R.K.*, 544 N.W.2d at 277.

The legislature has determined the interval for which patience with parents may last. “This period must be reasonably limited because patience on behalf of the

parent can quickly translate into intolerable hardship for the children.” *In re R.J.*, 436 N.W.2d 630, 636 (Iowa 1989). A child should not be forced to suffer the parentless limbo of foster care endlessly. *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990); *Long v. Long*, 255 N.W.2d 140, 146 (Iowa 1977). He or she need not endlessly await the maturity of his or her natural parent. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). “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). “Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable.” *L.L.*, 459 N.W.2d at 489. To continue to keep children in temporary or even long-term foster homes is not in their best interests, especially when the children are adoptable. *In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989); *T.T.*, 541 N.W.2d at 552.

Carol has been consistent in her failure to provide a safe, healthy home for her children, including Mary. She has had more than ample services provided without significant change. Her common response to issues of abuse or neglect is either to deny them or to relate them to some physical malady. Because of her denial of Mary’s claims of sexual abuse, Carol cannot participate in visitation with Mary without placing Mary at risk of emotional harm. Carol’s parenting problems are longstanding. Mary cannot safely be returned to Carol’s custody. Carol has not made efforts to maintain a meaningful relationship with Mary. Several reports of sexual abuse have been made concerning Carol’s children. One of Mary’s older brothers

was a victim of sexual abuse and now is a convicted sexual abuser. Her past abuse and neglect notwithstanding, Mary has improved greatly while in foster care. She is adoptable. The juvenile court properly terminated Carol's parental rights.

AFFIRMED.