IN THE COURT OF APPEALS OF IOWA

FILED
AUG 2 4 1988
CLERK SUPREME COURT

IN THE INTEREST OF C.H.,
A Child,

M.A.H., Mother,

Appellant.

8-333
88-472

145

Appeal from the Iowa District Court for Scott County (Juv. No. J(T) 5575-1187) - A. J. Van Zee, District Associate Judge.

The mother of a child appeals from the juvenile court's order terminating her parental rights. **AFFIRMED.**

Bobbi M. Alpers, Davenport, for the appellant mother.

Thomas J. Miller, Attorney General; Valencia Voyd McCown, Assistant Attorney General; and Gerda Lane, Assistant County Attorney, for the appellee State.

Considered by *Oxberger*, C.J., and Donielson and Schlegel, JJ.

OXBERGER, C.J.

The natural mother, M.A.H., appeals the juvenile court's order terminating her parental rights. The only issue is whether the State proved by clear and convincing evidence that termination was necessary. We affirm.

Our review of the proceedings to terminate parent-child relationships is de novo. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981); In re L.P., 370 N.W.2d 839, 840 (Iowa App. 1985). We accord weight to the fact findings of the juvenile court, especially when considering the credibility of the witnesses whom the court has heard and observed firsthand, but we are not bound by them. In re L.P., 370 N.W.2d at 840; Iowa R. App. P. 14(f)(7). Central to a determination of this nature are the best interests of the child. In re Dameron, 306 N.W.2d at 745. The State has the duty to see that every child receives minimally adequate care and treatment and will intercede when parents abdicate their responsibility. Id. The State may revoke the rights of parents if its allegations are proven by clear and convincing evidence. Iowa Code § 232.116(5)(c) (1987).

M.A.H. asserts her parental rights should not be terminated as C.H. has not been physically abused nor harmed in any other manner by her mother. The State argues that clear and convincing evidence exists to support a finding that C.H. is likely to suffer harm as a result of physical abuse and her mother's inability to supervise her.

We note that the court will look to the past behavior of a parent as an important factor. In re C.W., 342 N.W.2d 885, 887 (Iowa 1983). We look to the child's long-range and immediate interests and consider what the future could hold for the child if returned to the parent. In re M.H., 367 N.W.2d 275 (Iowa App. 1985). In making this determination we look to evidence of the parent's past performance as an indication of the quality of future care that parent is capable of providing. In re Dameron, 306 N.W.2d at 745. Our statutory termination provisions are preventative as well as remedial, and therefore mandate action to prevent probable harm to a child and do not require delay until after harm has occurred. In re N.H., 383 N.W.2d 570, 572 (Iowa 1986).

C.H. was born on June 19, 1986. At the time of the birth, C.H.'s mother was fourteen years old and was a resident of the Juvenile Home in Toledo, Iowa. The child's father has had no contact with the child since birth. His parental rights were terminated pursuant to this proceeding. Because of the mother's age and involuntary placement in the juvenile home, the child was placed in foster care immediately after birth. C.H. was adjudicated to be a child in need of assistance in August, 1986. The child has lived in foster care continuously since that time.

The record shows that M.A.H. has a history of assaultive behavior. M.A.H. was placed in the Iowa Juvenile Home

in October, 1985, for burglary and assault. Prior to this placement, M.A.H. had behavioral problems in school. She has been placed in disorder classes and then home instruction when problems worsened. In 1982, she was placed in the Bethany Home where her violently aggressive behavior continued. She had problems with both students and staff. In September, 1985, the Juvenile Court Services received a report from M.A.H.'s school administrator indicating that M.A.H.'s was assaultive toward staff and unwilling to abide by school rules.

M.A.H. was placed in the Scott County Juvenile Detention Facility in September, 1985, upon her adjudication as a delinquent, stemming from charges of assault and burglary. M.A.H. was eventually placed in the Iowa Juvenile Home where she remains at the date of this proceeding. Her demeanor continues to be characterized as assaultive and violent.

M.A.H. was allowed visitation with C.H. twice a week for at least one hour pursuant to a court order. There were a series of visits from July, 1986, until October, 1986. M.A.H. has not been allowed visitation since that time because M.A.H.'s behavior at the institution has been so violent and unpredictable the staff at the home did not feel they could protect C.H.

The record reveals instances of M.A.H.'s frustration with the child, such as during the August 16, 1986 visit

where M.A.H. grabbed the baby when she was angry with the staff. Staff members had to coax M.A.H. to give C.H. back. Other testimony indicates that M.A.H. was rough with the baby.

M.A.H. was given special incentive to be able to continue visitation with C.H. if she was able to control her behavior for a period of time. She was not able to meet these requirements even though they were lowered. M.A.H. was locked up for one hundred thirty-five days during the first eight months of C.H.'s life. One hundred eighteen of those days were for assault on staff and threat of assault.

Appellant asserts that because she was able to successfully work with children at an off-campus day care job from October 6, 1987, until November 23, 1987, that she would be a proper custodian for C.H. We note, however, that M.A.H. ended her career at the day care by going AWOL, even though she knew that this was her opportunity to demonstrate that she was capable of visiting safely with C.H.

M.A.H. has been offered many opportunities and programs as well as medication to control her assaultiveness. Despite these attempts, M.A.H.'s behavior continue to be violent. The record contains a pschiatric evaluation from January, 1988, which concludes that M.A.H.'s prognosis and future success are poor and recommends that M.A.H. continue in her present placement at the juvenile home.

The record clearly indicates that M.A.H. has violently aggressive and assaultive tendencies which she remains unable or unwilling to control. We find clear and convincing evidence that it would not be in C.H.'s best interest to return her to M.A.H.'s custody.

M.A.H. argues that the court should not have terminated her parental rights pursuant to Iowa Code §§ 232.116(6)(a) and (6)(e). Section 232.116(6)(a) provides that a parent-child relationship need not be terminated if a relative has legal custody of the child. M.A.H. argues that her mother would be willing to take care of C.H. However, the record does not support that the maternal grandmother is an appropriate custodian or willing to serve as such. Section 232.116(6)(c) provides that a parent-child relationship need not be terminated if the absence of a parent is due to parents' commitment to any institution. M.A.H. contends that her lack of visitation is a direct result of her status as a resident of the Iowa Juvenile Home. We find this assertion unpersuasive in light of evidence which shows that M.A.H.'s lack of visitation is due to her failure to control her aggressive and violent behavior.

We find clear and convincing evidence in the record to establish grounds for termination of the parental rights of M.A.H.

AFFIRMED.