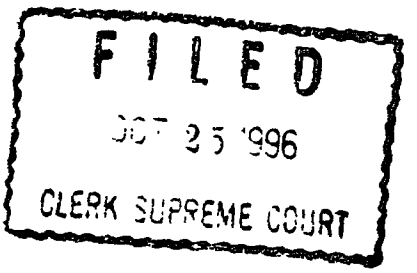
IN THE COURT OF APPEALS OF IOWA

No. 6-563 / 96-892



IN THE INTEREST OF M.J.G. III, Minor Child,

S.G., Mother,
Appellant,
M.G. Jr., Father,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Mary McCollum-Timko, Associate Juvenile Judge.

Parents appeal from termination of their parental rights to their son. **AFFIRMED.**

Mayer Kanter, Sioux City for appellant mother.

Thomas A. Vakulskas of Vakulskas & Hoffmeyer, P.C., Sioux City, for appellant father.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney General, and Marleen Loftus, Assistant County Attorney, for appellee.

Decided en banc.

PER CURIAM

Moses and Susan are the parents of Trey, born on August 28, 1993. They appeal the termination of their parental rights to the child.

The Department of Human Services (DHS) initiated an investigation regarding Trey in December 1994 due to an allegation Susan had hit Trey several times on the head. DHS entered a founded report of denial of critical care. Trey was removed from the home and placed in foster care. At this time Moses had been in the Woodbury County Jail since August 1994.

Both Moses and Susan had previous involvement with DHS. They are the parents of Sharon and Priscilla. Their parental rights to Priscilla were terminated on January 30, 1990, and those to Sharon were terminated on June 15, 1992. Susan is also the mother to two other children, and her parental rights to these children were terminated in October 1993. In addition, Moses is the father of two other children, and his parental rights to these children were terminated in December 1988.

Susan had supervised visitation with Trey in her home beginning in January 1995. Moses was released from jail in August 1995, and he then was also present for visitation. Trey received very little discipline from his parents during these visits. There were also concerns about domestic violence in the home, due to the fact Susan displayed bruises on at least two occasions after Moses returned from jail. Moses was on house arrest and was required to wear an ankle monitor during his release. He was awaiting sentencing on federal drug charges.

Susan and Moses had psycho-social evaluations administered by Marigail Mullin, the social services director of the Crittenton Family Development Center. Susan scored very low in the area of empathy, meaning she had little understanding of a child's needs. The report also found Susan had learned some parenting techniques from earlier services, but she was not able to implement what she had learned. Moses told Mullin the five prior founded child abuse reports against him were false. He had not received services to address previous claims of sexual abuse, physical abuse, or domestic abuse. The report found Moses seldom engaged in active parenting. Both parents blamed the State for their problems.

On July 3, 1995, the State filed a petition to terminate the parental rights of Susan to Trey under Iowa Code sections 232.116(1)(c) and (h). The State sought to terminate Moses' parental rights under sections 232.116(1)(b), (c), and (h). The juvenile court found past behavior is an indicator of future behavior. Based on this principle, the court concluded future harm to Trey was imminent if he were returned to the care of Susan and Moses. The court terminated the parental rights of Moses and Susan to Trey. The parents have appealed.

I. The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Our primary concern is the best interests of the child. *In re A.Y.H.*, 508 N.W.2d 92, 94 (Iowa App. 1994). Those best interests include the child's long-range as well as immediate interests. *Id.* The grounds for termination

must be proven by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995).

II. Susan contends the State failed to show it was in Trey's best interests to terminate her parental rights. She believes the State should not rely on her relationship with her other children, and should focus solely on her relationship with Trey. She believes the fact she is too soft-hearted to discipline Trey is not a sufficient reason to terminate her parental rights.

We find it is in Trey's best interests to terminate Susan's parental rights. Trey was removed from Susan's care due to a founded report she had hit him on the head several times. Also, Susan refused to discipline Trey even when he would hit or spit on others. Additionally, Susan refused to address the problems of domestic abuse in her home. Thus, even without considering the founded reports of child abuse against Susan in regard to her other children, we find there is sufficient evidence to terminate her parental rights to Trey.

III. Moses claims the juvenile court failed to state the grounds on which his parental rights were terminated. He asks us to remand the case to allow the juvenile court to set forth the applicable code sections. The petition for termination of parental rights set forth the grounds on which the State sought to terminate Moses' parental rights. The State alleged Moses' parental rights should be terminated under sections 232.116(1)(b), (c), and (h). We believe this is sufficient to alert Moses to the grounds relied upon by the juvenile court.

IV. Moses contends the State presented insufficient evidence to justify the termination of his parental rights. He believes the juvenile court improperly relied on unfounded reports of child abuse and the previous termination of his parental rights to other children. He states if he is placed on probation on his pending federal charge he will be able to care for Trey. He states that although it is likely he will be in prison, this should not prevent him from proving he is capable of taking care of Trey.

Moses admitted he had been in prison about one-half of Trey's lifetime, and the evidence showed Moses did not take an active role in parenting when he was out of prison. Furthermore, Moses admitted it was likely he would be sentenced to prison in his pending case, and would be unavailable to care for Trey. There was some question regarding the use of drugs because Moses had previously pled guilty to drug dealing, and was currently waiting sentencing on another drug-related charge. Moses had not addressed the issue of domestic abuse. He had not made any changes in his life to correct those areas which had caused the termination of his parental rights to his other children. We conclude the State presented sufficient evidence to justify the termination of Moses' parental rights.

We affirm the decision of the juvenile court to terminate the parental rights of Susan and Moses. We determine the termination is in Trey's best interests.

AFFIRMED.