FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 1-369 / 91-595

IN THE INTEREST OF

L.D.W.,

Minor Child.

J.W.,

Mother-Appellant.

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Appeal from the Iowa District Court for Black Hawk County, Jane Mylrea, Juvenile Referee.

Mother appeals the termination of her parental rights to her daughter. **AFFIRMED.**

Timothy D. Ament, of Gartelos & Wagner, Waterloo, for appellant mother.

Bonnie J. Campbell, Attorney General, Judy Sheirbon, Assistant Attorney General, and Jon Parmeter, Assistant Attorney General, for appellee.

Heard by Oxberger, C.J., and Schlegel and Hayden, JJ.

SCHLEGEL, J.

This case is an appeal by the mother, J.W., from the order which terminated her parental rights to her daughter, L.W., born June 7, 1984. The location of the child's father is unknown.

When the child was approximately two years old, her mother ran away from her foster home placement without L.W. The child was removed from her mother's care and remained in foster care for approximately two years. In October 1986 L.W. was adjudicated CINA as defined in Iowa Code section 232.2(6)(b). J.W. was ordered to attend parenting classes and family therapy.

In October 1988 L.W. was returned to her mother's care. J.W. subsequently moved with L.W. to Minnesota and Ohio without proper notification. A few days prior to the move to Minnesota, L.W. had been sexually abused by the minor grandson of her foster parent.

In July 1989 authorities located L.W. through Ohio school records. L.W. had again been sexually abused, this time by a friend's son. J.W. did not obtain appropriate counseling for the child and failed to follow through with sexual abuse treatment.

While in Ohio, J.W. and L.W. had lived in a shelter care facility. L.W. was left unsupervised and on one occasion had been shocked and burned by an electrical cord. Additionally, doctors had diagnosed L.W. as having the disease of sickle beta thalassemia which can be fatal

if routine medical care and preventive antibiotics are not taken on a daily basis.

Pursuant to a temporary removal order, L.W. was returned from Ohio to Iowa, and J.W. followed. On March 7, 1990, during a restroom break from a supervised visitation at the Department of Human Services, J.W. absconded with the child for approximately five days. The child's whereabouts were unknown, and she was without appropriate medication. J.W. eventually returned with the child, and the child was once again placed in foster care.

On July 2, 1990, the State petitioned to terminate L.W.'s parental rights. On April 9, 1991, the juvenile court terminated the parental rights of both parents to L.W. The court observed that the numerous services offered to the child's mother were inconsistently followed and that the goals set for her by the department were not achieved. The court believed that concerns for the child's safety and health still remained due to the health risk the child experienced during the absconding incident and the lack of security for supervised visitation. The court observed that visitation ceased between the mother and child and that the only contact had been by telephone and gift giving. The father had not maintained contact with the child during the course of her entire life. Accordingly, the juvenile court referee terminated the parental rights of both parents. J.W. appeals.

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984), cert. denied, 469 U.S. 1222, 105 S. Ct. 1212, 84 L. Ed. 2d 353 (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); see In re A.C., 415 N.W.2d 609, 613 (Iowa 1987).

Termination of both parents' rights were granted pursuant to Iowa Code section 232.116(1)(c) and (d) (1991). Termination under the first section is appropriate when the court finds by clear and convincing evidence:

> (1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

> (2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

Iowa Code § 232.116(1)(c) (1991).

It is undisputed that L.W. was adjudicated a child in need of assistance in October 1986. See Iowa Code § 232.2(6)(b) (1985). In addition, we believe there is clear and convincing evidence showing that the second subsection is also satisfied. The mother has been offered numerous services and support since 1986 when she left L.W. in the foster home. The record shows, however, that she has continued to put her own needs before L.W.'s needs for a stable and secure home for over four years. The trial court found that all services offered J.W. at various times throughout the years, including substance abuse evaluation, attending sexual abuse classes, parenting classes, supervised visitation, and family-centered services, had all been uncompleted.

It seems that J.W. also has not confronted the sexual abuse problems nor does she take any responsibility for L.W.'s exposure to sexually abusive and drug abusive environments. J.W. refused sexual abuse counseling for herself and L.W. in Minnesota. She then moved to Ohio with L.W. in April 1988 without notifying anyone. The sexual abuse of L.W. during this period and L.W.'s exposure to drug abusive environments clearly show J.W. still needs

instruction on how to meet L.W.'s needs. L.W. has behavior problems of sexually acting out and inappropriate affection.

In addition, L.W. has a disease which requires close supervision and constant medication. Thalassemia disease can be fatal and very painful if routine medical care and preventative antibiotics are not taken on a daily basis. After being located in Ohio, J.W. was given an opportunity to prove she could meet these special needs. She chose once again to flee with L.W. without arranging for medication.

J.W. has not been cooperative with essential counseling and therapy for herself or L.W. The amount of patience for her actions must be reasonably limited because "patience with parents can soon translate into intolerable hardship for their children." In re A.C., 415 N.W.2d 609, 613 (Iowa 1987). J.W. has not achieved the level of maturity and stability in order to properly parent and protect her child, and, as the trial court noted, L.W. "should not be left in limbo awaiting her mother's maturation." We conclude there is clear and convincing evidence to support the determination that L.W. continually turned down the services offered her and hence problems still exist with her and her child. See Iowa Code § 232.116(1)(c)(2) (1991).

The district court terminated J.W.'s parental rights based also on Iowa Code section 232.116(1)(d). The third

element of this subsection requires in part "clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months." Iowa Code § 232.116(1)(d)(3) (1991). The mother contends this element is inapplicable to her because the court ordered no face-to-face contact between her and her daughter following their flight from a visitation. The State believes this section was properly applied; it argues J.W.'s flight and her refusal to work on sexual abuse issues resulted in the order for no visits. Because we affirm the termination pursuant to Iowa Code section 232.116(1)(c), we do not address the applicability of this section.

J.W. has shown an inability to protect L.W. from abusive environments and has endangered L.W.'s health by ignoring her medical needs. We give primary consideration to the physical, mental, and emotional condition and needs of the child. In Interest of J.W.D., 456 N.W.2d 214, 217 (Iowa 1990). Because of the mother's past behavior and her reluctance to deal with the sexual abuse issues, we believe it is in the best interest of L.W. that J.W.'s parental rights be terminated. See id. at 217-18.

AFFIRMED.