

IN THE IOWA COURT OF APPEALS

IN THE INTEREST OF)

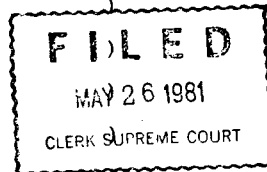
Filed May 26, 1981

LOUISE KROEGER,

A child.

JACQUELYN SUE KROEGER,

Appellant.

1-51
3-64814

Appeal from Henry District Court. Gary Snyder, Judge.

Natural mother appeals from trial court ruling terminating her parental rights.
AFFIRMED.

Michael J. Schilling, Burlington, Ia., for appellant.

Cynthia Danielson, Mt. Pleasant, Ia., and Thomas J. Miller, Attorney General of Iowa, and Brent D. Hege, Assistant Attorney General, for the child.

Submitted to Oxberger, C.J., and Danielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Jacquelyn Kroeger, natural mother of Louise Kroeger, appeals from a trial court ruling terminating her parental rights to Louise under chapter 600A, The Code 1977. Jaquelyn alleges that the trial court incorrectly found that she abandoned Louise and that she substantially, continuously, and repeatedly refused and neglected her parental duties toward Louise. We affirm.

Our review is de novo. In Interest of Voeltz, 271 N.W.2d 719, 722 (Iowa 1978); In re Interest of Kelley, 262 N.W.2d 781, 782 (Iowa 1978); Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of the witnesses, but we are not bound by them. In re Loeffelholz, 162 N.W.2d 415, 419 (Iowa 1968); Iowa R. App. P. 14(f)(7). This proposition is particularly applicable in a case of the present kind, Long v. Long, 255 N.W.2d 140, 143 (Iowa 1977). Such matters as demeanor of the parties, candor or lack thereof on the part of witnesses, attitudes, real and assumed, and apparent motives of those testifying, are all entitled to much weight in making findings. Long, 255 N.W.2d at 143. We shall affirm the termination only if there is clear and convincing evidence of one of the grounds for termination. In Interest of Kelley, 262 N.W.2d 781, 784-85 (Iowa 1978); § 600A 8, The Code 1977. Our controlling concern is the best interest of Louise. Iowa R. App. P. 14(f)(15). A termination proceeding is not like a personal injury action where an injury must be proved before damages may be recovered. In Interest of Kester, 228 N.W.2d 107, 110 (Iowa 1975). The termination-of-parental-rights statute is preventive as well as remedial. Id. The statute mandates action to prevent probable harm to children and does not require delay until after the harm has been done. Id. The fundamental consideration in a termination decision is what the future holds for the child if he is returned to the custody of his natural parent. In Interest of Ponx, 276 N.W.2d 425, 433 (Iowa 1979). Determination of what is likely to occur in the future is based on present conditions and what has occurred in the past. Id.; In Interest of Freund, 216 N.W.2d 366, 369 (Iowa 1974).

On March 11, 1977, when Louise was five years old, Jacquelyn left Louise in Mt. Pleasant with a friend, Janet Judd, said she would return in one day, and left for Davenport. Jacquelyn left an address and phone number where she said she could be reached. After several days passed without Jacquelyn's return, attempts to locate her failed, Janet Judd wanted to relinquish custody of Louise, and on March 17 the Henry

County Department of Social Services assumed emergency custody of Louise. Jacquelyn did not return to Mt. Pleasant to take custody of Louise until at least a week after she left for Davenport. There is no evidence that Jacquelyn requested that Louise be returned to her custody until January, 1978. In the meantime, on August 15, 1977, Louise was adjudicated a child in need of assistance. In January, 1978, a social worker employed by Social Services presented Jacquelyn a list of goals to be satisfied in order to regain custody of Louise, including establishing a suitable residence, obtaining counseling for drinking and emotional problems, obtaining employment, keeping the caseworker informed as to any changes in address, and regularly visiting Louise. As of October 11, 1979, one of several dates set for hearing on the termination petition, none of these goals were satisfied.

In the two years and seven months between March, 1977 and October, 1979, while Jacquelyn resided in the Quad Cities, she visited Louise no more than once. After January, 1978, she never visited or attempted to visit Louise until October, 1979. After the petition to terminate parental rights was filed in March, 1979, seven months passed before Jacquelyn visited Louise in October, 1979. Social Services offered to provide or pay for Jacquelyn's transportation for visiting Louise, but Jacquelyn declined the offer. Social Services also offered to pay Jacquelyn's first month's rent and to help her search for housing and employment in Mt. Pleasant, so as to aid her regaining custody of Louise. Jacquelyn declined the offer. Since March, 1977, Jacquelyn has provided no economic support for Louise. From March, 1977 through April, 1978 Jacquelyn made no inquiries to determine if Louise was being properly fed, clothed, educated, or was properly adjusting to foster care. Jacquelyn never contacted Louise' foster parents concerning her welfare.

Since Louise' birth on November 23, 1971, Jacquelyn has been employed only twice. She held a job as a nurse's aid in Davenport in the spring of 1979 for one or two months before she quit. She has worked for two weeks through the date of the termination hearing as a janitor. Since March, 1977 until November, 1979, except for a few weeks, Jacquelyn has lived with various men and women, and has not had a residence of her own. A social worker from Social Services who has worked on this case since its inception recommends that Jacquelyn's parental rights be terminated because she is unable to make a commitment to be Louise' full-time parent.

The trial court terminated Jacquelyn's parental rights in Louise on the grounds of abandonment under section 600A 8(3), The Code 1977. Section 600A 2(16) provides:

"To abandon a minor child" means to permanently relinquish or surrender, without reference to any particular person, the parental rights, duties, or privileges inherent in the parent-child relationship. The term includes both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over a long or any particular period of time.

The trial court also terminated Jacquelyn's parental rights in Louise on the alternate ground specified by section 600A. 8(4), which provides for termination in case:

A parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent-child relationship.

We conclude that there is clear and convincing evidence for the termination on both grounds. Since March of 1977 Jacquelyn has avoided having personal contact with Louise, including for a twenty-month period, even though she clearly had the ability to make regular visitations. Since March of 1977 Jacquelyn has shown little concern for Louise' welfare and has provided her with no economic support. Although Jacquelyn has only an eighth grade education, nevertheless the record discloses no satisfying explanation for her abysmal employment record. Jacquelyn's personal relationships and places of residence are both highly unstable. Up until a few weeks before the termination hearing, Jacquelyn took no serious action to satisfy the goals established by Social Services for regaining custody of Louise.

Within a few weeks before the termination hearing, Jacquelyn moved to Mt. Pleasant, where she resumed living with a friend, procured a job, and visited Louise three times. The trial court believes, and we are inclined to agree, that some of these positive steps taken in the eleventh hour of this case "were intended to benefit the needs of Jacquelyn Sue Kroegeer and not to benefit the child, nor the parent-child relationship." In making the difficult judgment concerning what course of action is in Louise' long-range best interests we are obligated to consider Jacquelyn's actions as they occur over an extended period of time and not to limit our focus to a narrowly circumscribed time frame. With this perspective in mind, we think that the language applied to the natural parent in Carrere v. Prunty, 257 Iowa 525, 532, 133 N.W.2d 692, 696 (1965), is applicable to Jacquelyn: Jacquelyn chose to take an extended holiday from the responsibilities of parenthood, and at this time she has no just claim to her

child's custody either in law or morals.

AFFIRMED.