

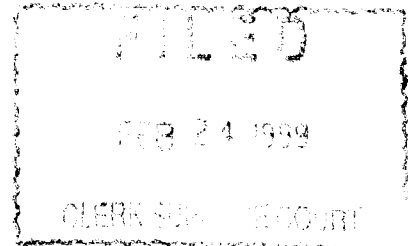
IN THE COURT OF APPEALS OF IOWA

No. 1999-9 (9-051) / 98-1712

Filed February 24, 1999

IN THE INTEREST OF C.J.M.C., C.L.T., and A.J.B.,
Minor Children,

L.C., Mother,
Appellant.



Appeal from the Iowa District Court for Woodbury County, Robert J. Dull,
District Associate Judge.

Mother appeals an order terminating her parental rights. **AFFIRMED.**

Douglas L. Roehrich, Sioux City, for appellant.

Thomas J. Miller, Attorney General, and Chris Odell, Assistant Attorney
General, for appellee-State.

Kayla A. Stratton, Sioux City, guardian ad litem for minor children.

Considered by Sackett, C.J., and Streit and Vogel, JJ.

VOGEL, J.

The mother, Lori, appeals, claiming termination of her parental rights to her three children was not in their best interest. The juvenile court terminated her parental rights under Iowa Code section 232.116(1)(k).¹

Factual setting: Lori is the mother of Candace, born in 1991, Carly, born in 1993, and Andrew, born in 1997. The children have different fathers. The fathers' rights are not at issue.

Lori herself was adjudicated in need of assistance and received both inpatient and outpatient treatment for substance abuse in 1990 and 1991. In August 1995, Woodbury County filed a CINA petition based on Lori's continued substance abuse and lack of a residence. Lori voluntarily agreed to foster placement of Candace and Carly. The girls were adjudicated in need of assistance in October 1995. The court

¹ This section provides:

k. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

found definitional grounds under Iowa Code sections 232.2(6)(c)(2), (g), and (n).²

Andrew was adjudicated CINA on the same grounds in January 1998.

In October, 1995 Lori entered, but did not complete the Women & Children's program at St. Luke's Recovery. She then entered a halfway house. After her discharge from the halfway house, Lori re-entered the Women & Children's program. Candace and Carly initially spent some time in foster care, but were returned to Lori in June 1996 while she was in the program at St. Luke. Lori later was discharged from the program for noncompliance. The girls remained in her care with protective supervision by DHS until February 1998. They and their brother, Andrew, were removed from Lori's custody for seven separate reasons. Candace was later placed with her biological father.

Since the inception of this case, Lori has participated in at least five inpatient treatment programs, with poor participation, minimal progress, followed by relapse. The department has provided services through Lutheran Social Services, the

² These sections provide:

c. Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:

(2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

g. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing or shelter and refuses other means made available to provide such essentials.

n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

Crittendon Center Parent Survival Program, and the Nurturing Program. Lori was ordered to cooperate with services, obtain her G.E.D., and obtain employment.

In May 1998 the State filed a petition to terminate Lori's parental rights. By the time of the hearing, Lori had not accomplished any of the things ordered by the court. She continued to abuse drugs and alcohol. The court terminated her rights to all three children under Iowa Code section 232.116(1)(k). The court also terminated the parental rights of Carly's and Andrew's fathers. Candace remains in the custody of her father.

Claim on appeal: Lori does not contest that grounds for termination exist under section 232.116(1)(k). Rather, she argues termination is not in the children's best interest. She claims she has the ability to deal with her substance addiction and is willing to work with DHS.

Discussion: Our primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995). We determine those best interests by looking at the child's long-range as well as immediate interests. We consider what the future likely holds for the children if they are returned to their parent. 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 489, 493 (Iowa 1990); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981); *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. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Lori's substance abuse remains a serious concern. She has been in treatment every year for the past several years without success. The children deserve stability which Lori is unable to provide. "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." *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). "It is unnecessary to take from the children's future any more than is demanded by statute." *In re A.C.*, 415 N.W.2d 609, 613-14 (Iowa 1987).

At the time of the termination hearing, Lori was incarcerated in South Dakota on a drug possession charge. She was in her first trimester with her fourth child, again by a different father than the other three. She stated her intention to put this child up for adoption. Lori's claim she has the ability to deal with her substance addiction and is willing to work with DHS rings hollow considering her past efforts and failures. We find termination of her parental rights in the best interest of Candace, Carly, and Andrew.

AFFIRMED.