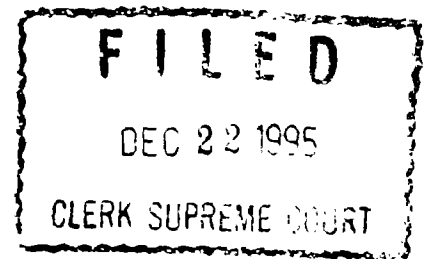


IN THE COURT OF APPEALS OF IOWA

No. 5-693 / 95-1296



IN THE INTEREST OF A.Y., A Minor Child,

B.Y., Mother,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke,
Associate Juvenile Judge.

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

Eric W. Johnson of Beecher, Rathert, Roberts, Field, Walker & Morris, P.C.,
Waterloo, for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Special Assistant
Attorney General, and Dan Block, Assistant County Attorney, for appellee State.

Sharon Briner, Assistant Public Defender, Waterloo, for appellee minor child.

Considered by Hayden, P.J., and Cady and Huitink, JJ.

HUITINK, J.

B.Y. appeals an order terminating her parental rights to her minor child, A.Y., pursuant to Iowa Code subsections 232.116(1)(c), (d), (f), (g) and (h) (1995). We affirm.

B.Y.'s parental relationship with her two minor children, M.Y. and B.Y., was terminated in 1992. The termination order chronicled B.Y.'s resistances to the department of human services, her history of mental illness, and inability to acknowledge parenting deficits.

In the late summer of 1993, B.Y. became pregnant with A.Y. B.Y. does not know who A.Y.'s father is and alleged that her pregnancy was the result of her having been drugged and gang-raped. A.Y. was born on June 8, 1994. Two days later, the department of human services placed A.Y. in protective foster care, citing concerns with B.Y.'s earlier ineffective parenting, her homelessness and her recurring mental problems.

During her pregnancy, B.Y. became involved in a program which provided her temporary housing and prenatal care. She lost her eligibility for this housing because A.Y. was removed from her custody. While A.Y. was in protective care, B.Y. worked with the department of human services to set goals she needed to accomplish to regain custody of A.Y. These goals included maintaining contact with A.Y., finding suitable housing and seeking employment. At the time these conditions were imposed, B.Y.

had been essentially unemployed for ten years and also lacked residential stability for virtually all of the same time period.

B.Y. attended visitation sessions regularly in the beginning of her treatment plan although she had a history of late visits. In November of 1994 B.Y. became angry with her service providers and refused to visit A.Y. for two months. When visitation resumed in January 1995, A.Y. did not recognize B.Y.

A.Y. was adjudicated CINA in October 1994 and a petition to terminate B.Y.'s parental rights was filed on January 17, 1995. At the termination hearing, B.Y.'s substance abuse counselor testified that B.Y.'s substance abuse problem would impact her parenting ability for six months to a year. Testimony was also presented that B.Y. was resisting services and displayed poor judgment in selecting housing and roommates. The evidence also showed that B.Y.'s parenting efforts were well intentioned, she often made age inappropriate judgments regarding A.Y.'s medical treatment. On July 18, 1995, the juvenile court filed an order terminating B.Y.'s parental rights pursuant to Iowa Code sections 232.116(1)(c), (d), (f), (g), and (h) (1995). B.Y. appeals.

Appellate review of termination proceedings is de novo. *In re W.G.*, 349 N.W.2d 487, 491 (Iowa 1984) *cert. denied sub nom. J.G. v. Tauke*, 469 U.S. 1222 (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

Our 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). In deciding what is best for the child we look to the child's long-range as well as immediate interests. We also look to the past performance of the parents because it is an indication of the quality of care the parent is capable of providing in the future. *In re A.M.S.*, 419 N.W.2d 723, 726 (Iowa 1988). We will not terminate parental rights pursuant to Iowa Code section 232.116(1) absent clear and convincing evidence the requirements of each provision have been met. *In re Chad*, 318 N.W.2d 213, 219 (Iowa 1982). The fact that the parent never had physical care of the child does not preclude termination of parental rights. *See In re Hoppe*, 289 N.W.2d 613, 618 (Iowa 1980).

The juvenile court terminated B.Y.'s parental rights pursuant to Iowa Code sections 232.116(1)(c), (d), (f), (g) and (h).¹ On appeal, B.Y. contends that the State

¹ The respective grounds for termination under each of these sections are as follows: another child in the family has been adjudicated CINA due to neglect and circumstances remain unchanged; the child has been adjudicated CINA and removed from parent's custody for at least six consecutive months, and the parent has failed to maintain significant and meaningful contact; the child has been adjudicated CINA, the court has terminated parental rights with respect to another child in the family, the parent continues to lack ability or willingness to respond to services, and additional period of rehabilitation would not correct the situation; the child is three years of age or younger, was previously adjudicated CINA, has been out of parent's custody for at least six months, and cannot be returned at present; the child meets the definition of CINA and will likely be neglected despite the offer of services. Iowa Code §232.116(1) (1995).

has failed to provide her with the opportunity to care for A.Y. and has not proven by clear and convincing evidence that A.Y. could not be returned to her custody. She claims that she has satisfied the requirements of the State's case plan to the best of her ability and that, as a result, A.Y. should be returned to her care. We disagree.

Contrary to B.Y.'s contentions, we find the State has made reasonable efforts to allow B.Y. the opportunity to care for her son. Shortly after A.Y.'s birth, the department of human services worked with B.Y. to develop a case plan to help B.Y. regain custody of her son. The case plan specified that B.Y. was to find employment and maintain a suitable home for herself and her child. B.Y., however, has accomplished neither of these goals. She has not maintained a stable home for the last ten years and during that time has demonstrated poor judgment in choosing temporary residences and roommates. Although B.Y. testified that she has made an effort to secure employment, she has been unable to hold down a job and is currently unemployed.

B.Y.'s inability to care for A.Y. is further evidenced by her failure to respond appropriately to her child's subsistence needs. She is unable to change her child's diapers without being told to do so and does not have age appropriate expectations for his needs. B.Y. has missed numerous visits and was late for many others. As a result of B.Y.'s failure to maintain steady visitation, her relationship with A.Y. has suffered. These concerns, coupled with B.Y.'s irresponsible life style and history of substance

abuse lead us to conclude that the juvenile court was correct in terminating B.Y.'s parental rights.

Our de novo review of the record reveals clear and convincing evidence showing B.Y. cannot adequately care for A.Y. The statutory grounds for termination under section 232.116(1) have been met. We conclude that it is in A.Y.'s best interest to terminate B.Y.'s parental rights. The decision of the juvenile court is affirmed.

AFFIRMED.