

IN THE COURT OF APPEALS OF IOWA

No. 3-401 / 93-0274

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FILED

SEP 2 1993

CLERK SUPREME COURT

IN THE INTEREST OF V.J. and A.J., Minor Children,
R.A.J., Natural Mother,
Appellant.

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

The mother appeals from the termination of her parental
rights. **AFFIRMED.**

Eric W. Johnson of Beecker, Rathert, Roberts, Field,
Fister, Walker & Morris, P.C., Waterloo, for Appellant.

Bonnie J. Campbell, Attorney General, John M. Parmeter,
Special Assistant Attorney General, Charles K. Phillips,
Assistant Attorney General, and Steve Halbach, Assistant
County Attorney, for Appellee-State.

Sara Kersenbrock, Waterloo, guardian ad litem for the
children.

Considered by Oxberger, C.J., and Schlegel and Sackett,
JJ.

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OXBERGER, C.J.

R.J. appeals a juvenile court decision terminating her parental rights. She is the twenty-three-year-old mother of two children. Her first child, A.J., was born August 23, 1988. Her second child, V.J., was born October 25, 1989.

A founded child abuse report was made against R.J. on July 12, 1990, for denial of critical care. On August 31, 1990, the juvenile court issued an order for the temporary removal of the children after she left them with a day care provider for over forty-eight hours without making previous arrangements. The children were placed in foster care. Another founded child abuse report was filed against R.J. The children were subsequently removed.

In December 1990, the children were adjudicated CINA pursuant to Iowa Code section 232.2(6)(1)(2) (1989). After a dispositional hearing on March 8, 1991, the court found the children continued to be CINA and adopted a case plan.

In June 1991 a court report was filed indicating R.J. frequently missed visits. In July 1991 she completed a psychiatric evaluation. Her diagnosis included parent-child problems, alcohol dependence, and a passive personality. In July 1991 she pleaded guilty to fraudulent practices in the second degree and was placed on probation.

In September 1991 foster care placement was continued by stipulation. At the beginning of 1992 DHS reported that only one supervised visit had occurred since July 1991. The DHS report states "R.J. was noncompliant with services

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offered" and fifteen months of services had "failed to motivate R.J. to have her children returned to her."

Only one of four scheduled visits in January 1992 occurred. In February R.J. went to jail for violating probation. She was transferred to a residential facility, but her probation was revoked and a warrant issued for her arrest. She had signed out of the facility, but did not show up at her job or her counseling appointment.

A petition to terminate parental rights was filed, and a hearing was held. The children's maternal grandmother, Jacklyn, requested the children be placed in her custody. The court found termination was not in the children's best interests given the possibility of placement with the grandmother. The children were placed with Jacklyn. However, a child abuse report was subsequently filed against her, and she requested the children be removed.

In December 1992 another termination proceeding was held. R.J. was still in jail, but expected to be discharged in February. At that time she would enter a ninety-day residential substance abuse treatment program. The court held that the "children cannot wait for the unlikely prospect that their mother will change." The court terminated her parental rights pursuant to Iowa Code sections 232.116(1)(c,d,e,g,h, and k).

R.J. appeals.

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984) cert.

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 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.

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).

Finally, these children should not be forced to endlessly await the maturity of their mother. In re T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). Termination must occur if twelve to eighteen months have elapsed since the children were removed from the home and the parent still cannot take care of the children. Id. Evidence of the parent's past performance may be indicative of the quality of future care he or she is capable of providing. Dameron, 306 N.W.2d at 745.

R.J. does not argue that the specific statutory grounds for termination were not proven. She alleges she complied

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with the case plan established by DHS. She further alleges that it was not proven that the children could not be returned to her care.

R.J. frequently failed to attend scheduled visits with her children. She did not complete a required parenting class. She failed to arrange suitable housing for herself or her children. At one point, she attended only one visitation with the children in a six-month period. She failed to follow many of the recommendations made to her by her residential treatment facility. R.J.'s probation was revoked on several occasions due to noncompliance. She was unable to visit the children on several occasions due to numerous incarcerations, based on sentences and parole violations. We find ample evidence of R.J.'s failure to follow her case plan. We further find ample evidence showing the children cannot be safely returned to R.J.'s care. This is a textbook case supporting termination of mother's parental rights. We affirm the decision of the juvenile court.

AFFIRMED.

Schlegel, J., concurs; Sackett, J., specially concurs.

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SACKETT, J. (specially concur)

I concur specially without opinion.