

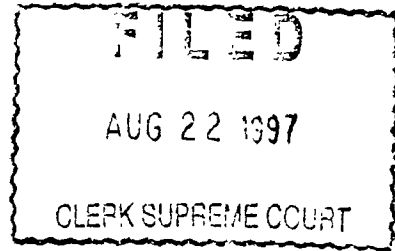
IN THE COURT OF APPEALS OF IOWA

No. 7-392 / 97-0101

000261

**IN THE INTEREST OF E.A.S. and C.M.S,
Minor Children,**

**L.S.E., Mother,
Appellant.**



Appeal from the Iowa District Court for Hardin County, Peter B. Newell,
District Associate Judge.

The mother of two minor children appeals a district court ruling terminating
her parental rights. **AFFIRMED.**

Kevin A. Fors, Harcourt, for appellant.

Thomas J. Miller, Attorney General, Richard E. Ramsay, Assistant Attorney
General, and Richard N. Dunn, County Attorney, for appellee State.

James P. Walters of Walters & Johnson, Iowa Falls, guardian ad litem for
minor children.

Considered by Habhab, C.J., and Sackett and Huitink, JJ.

SACKETT, J.

Lisa, mother of Emily, born in November 1990, and Colby, born in May 1992, appeals the termination of her parental rights to these children. Lisa contends (1) the record does not support a finding that it is in the best interest of the children to terminate the parent-child relationship, and (2) there is not clear and convincing evidence that the children cannot be returned to her custody. We affirm.

On September 20, 1996, the juvenile court entered an order terminating Lisa's parental rights under Iowa Code section 232.116(1)(e). The order did not address the rights of the children's fathers.

Lisa sought a new trial. She told the court the name of Colby's father. On October 8, 1996, the juvenile court said its ruling of September 20, 1996, was not final and continued the matter so the parental rights of the children's fathers could be terminated. On December 20, 1996, the parental rights of the fathers were terminated. Lisa filed her notice of appeal on January 17, 1997.

The State has alleged we lack jurisdiction to hear this appeal because it was not timely filed. Lisa's appeal was timely. The juvenile court said the September 20, 1996, ruling was not final for purposes of appeal. Lisa filed a notice of appeal within thirty days of the juvenile court's final order terminating the parental rights of all the parents of Emily and Colby. We conclude we have jurisdiction to consider this appeal.

Lisa contends it is not in the best interest of her children that her parental rights be terminated. In December 1993, Lisa was hospitalized for depression. Lisa placed the children with a friend, Dawn, and her husband, Jeff, and agreed they be appointed guardians of the children.

A petition to have the children found children in need of assistance was filed April 28, 1994. In May 1994, Lisa contacted the Department of Human Services and asked for help in regaining custody of her children. Lisa was then living with Ron and his 11-year-old son. The children were found to be children in need of assistance on August 22, 1994. Lisa was provided with family therapy, individual counseling, supervised visitation, and home visits.

In October 1994, the children were placed in Lisa's care with the agreement she continue family therapy and parenting classes. On December 19, 1994, the Department of Human Services received a report the children had been physically abused. Lisa agreed to return the children to Dawn and Jeff. After investigation, the Department determined Emily had been physically abused by Ron and both children had been denied critical care.

Later in December, Emily alleged she had been sexually abused by Ron and Lisa while she lived with them. After an investigation, the Department found Emily had been sexually abused by Lisa and Ron. Lisa and Ron denied the sexual abuse and claimed Emily fabricated the incident. In therapy, Emily expressed fear of Lisa

and visitation between them was terminated. Lisa did continue to have supervised visitation with Colby.

On May 7, 1996, the State filed a petition to terminate Lisa's parental rights to Emily under Iowa Code section 232.116(1)(e) and Colby under Iowa Code section 232.116(1)(e), or in the alternative, section 232.116(1)(g). After a hearing, the court found:

The court believes that there has been overwhelming evidence presented that to return the children, [Emily and Colby], to the parental home of [Lisa] would be to put them at risk of immediate physical and sexual abuse. The court also believes that they would be at risk for neglect in [Lisa's] household. The court does not believe that any level of supervision or intervention by the Department of Human Services would be sufficient to provide adequate protection for these children. [Lisa] simply does not have the ability to parent children. She is a person of limited intellectual ability who has a total lack of insight into her own behavior, her lack of parenting skills, and the trauma which has occurred to her children through her active abuse or passive failure to protect them. [Lisa] also lacks insight into her dependency upon abusive males.

[Lisa] has also demonstrated her lack of truthfulness with the court and with the Department of Human Services. [Lisa] could not be relied upon to provide the Department of Human Services with accurate information as to the health and welfare of her children. She has lied to the Department of Human Services about the health and welfare of her children in the past.

The court believes that [Lisa] has physically and sexually abused [Emily]. The court believes that [Lisa] has physically abused [Colby]. The court believes, based on the evidence presented to it, that [Lisa] has allowed both of these children to be physically abused by [Ron], and allowed [Emily] to be sexually abused by [Ron] and by [Ron's] son, Ronnie.

The court ordered the parental rights of Lisa to Emily and Colby terminated and further ordered guardianship and custody of Emily and Colby be transferred to Dawn and Jeff.

The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995).

Lisa argues it is not in the best interests of Emily and Colby for the parent-child relationship to be terminated. Lisa states she did not get along with Dawn and Jeff and believed they were trying all along to obtain custody of the children. Lisa asks for more time to reunite with the children.

The findings of the trial court are supported by clear and convincing evidence. We affirm the decision of the juvenile court terminating Lisa's parental rights to Emily and Colby.

AFFIRMED.