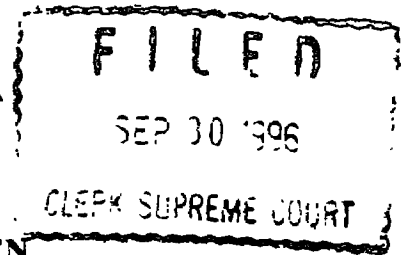


IN THE COURT OF APPEALS OF IOWA

No. 6-495/96-492



IN THE INTEREST OF J.L. AND A.L., MINOR CHILDREN,

B.L., Mother,
Appellant.

Appeal from the Iowa District Court for Muscatine County, James A. Weaver,
District Associate Judge.

B.L., the mother of two minor children, appeals a district court order
terminating her parental rights. **AFFIRMED.**

Tracy E. Conner, Davenport, for appellant.

Thomas J. Miller, Attorney General, Diane M. Stahle, Special Assistant
Attorney General, Maureen McGuire, Assistant Attorney General, and Christine A.
Dalton, Assistant County Attorney, for appellee State.

Thomas G. Reidel of Conway & Reidel, Muscatine, guardian ad litem for
minor children.

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

VOGEL, J.

Brenda appeals a district court order terminating her parental rights. We affirm.

Brenda and Brian are the parents of J.L., born October 10, 1988, and A.L., born June 30, 1990. In 1992, the couple was divorced with Brenda awarded custody. Child abuse was first reported in September 1992 and later in January 1993 and September 1993. The children were placed in foster care in September 1993. A Child in Need of Assistance (CINA) hearing was held on November 8, 1993. The allegations were based on Brenda's poor choice of family members as child care providers, the repeated abuse the children suffered in other family members homes,¹ Brenda's inability to properly care for the children, and Brenda's mental health and substance abuse problems. They were adjudicated CINA under Iowa Code section 232.2(6)(b), 232.2(6)(c)(2), and 232.2(6)(n) (1993) on December 30, 1993. Intensive services have been offered to the family since 1990 and numerous unsuccessful attempts to reunify Brenda with her children have been made. On February 21, 1996, Brenda and Brian's parental rights were terminated pursuant to Iowa Code sections 232.116(c) and (e) (1995).

Brenda appeals.

I. Scope of Review. 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*,

¹ Brenda denied this abuse occurred.

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.

II. *Best Interests of the Children.* Brenda contends the district court erred terminating her parental rights because termination was not in the best interests of the children. Specifically, she argues she has developed a strong bond with the children which should not be broken. A child's rights and needs are paramount concerns in a termination hearing. *In re S.A.*, 502 N.W.2d 23, 25 (Iowa App. 1993).

While the children's bonding to their mother is a consideration in determining their best interests, it is not the only issue to consider. Even though several witnesses testified as to how the children are bonded with Brenda, they also testified visits with Brenda set the stage for repeated and harmful regression in the children's behavior. Some confusion and anxiety may be expected when visits occur, yet the level of regression of the children was more than should be expected for small children seeking stability in their lives.

III. *Returning the Children to Brenda's Care.* Brenda contends the district court erred in terminating her parental rights pursuant to section 232.116(1)(e) because there was not clear and convincing evidence the children could not be returned to her care. To determine if a child can be returned to a parent's care under section 232.116(1)(e)(4), it must be determined if any of the grounds listed in section 232.2(6) are proven by clear and convincing evidence. *In re A.M.S.*, 419 N.W.2d

723, 725 (Iowa 1988); *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995); *In re R.L.*, 541 N.W.2d 900, 903 (Iowa App. 1995).

Of great concern is the risk the children would suffer if another attempt at reunification were made and failed. The children's therapist cautioned of very severe damage to the children should that occur. Brenda is not ready to resume care of these children. One of the basis for the original adjudication was her inability to provide a reasonable degree of care for the children. Brenda's inability to manage unsupervised visits with children and her lack of control over the children in the supervised visits is a strong indicator of her inability to care for them on a full-time basis. She also indicated she would resume contact with her family when the Department of Human Services (DHS) is no longer involved in her life. The district court properly found Brenda was not capable of meeting the children's needs regarding their past emotional trauma, and their current needs, while avoiding the conditions that led to the original CINA adjudication. We find the children cannot be returned to their mother because there is clear and convincing evidence the children would be considered CINA pursuant to section 232.2(6)(c)(2).

IV. *Reasonable Efforts to Reunite the Mother and Children.* Brenda contends the district court erred in terminating her parental rights pursuant to Iowa Code section 232.116(1)(c). Specifically, Brenda argues she was not offered adequate services and consequently reasonable efforts were not made to reunite her with her children. Reasonable services must be provided in an attempt to reunite the

family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994).

The services to this family began in 1990, before Brenda and Brian were divorced. Brenda has a long list of problems that have been obstacles in her ability to effectively protect and parent her children. She has shown progress in some areas and cannot complain reasonable efforts were not made to correct the conditions which form the basis for the CINA adjudication and removal. A long list of therapists and other professionals have provided intensive services for Brenda and her children in an effort to help this family reunify. We find clear and convincing evidence Brenda's ability to care for her children has not improved enough to find they could be returned to her care.

V. *Ineffective Assistance of Counsel.* Brenda contends she received ineffective assistance of counsel in her termination hearing. The test for ineffective assistance of counsel in termination cases is generally the same as in criminal cases. *In re A.R.S.*, 480 N.W.2d 888, 891 (Iowa 1992). To establish a claim of ineffective assistance of counsel, it must be shown that (1) counsel's performance was deficient, and (2) actual prejudice resulted. *Id.* We presume counsel's conduct falls within the range of reasonable professional competency. *Id.*

Brenda asserts she lacked effective assistance of counsel at the termination hearing from trial counsel's failure to call one social worker to testify. That particular DHS caseworker had only worked on her case for one month prior to the termination

hearing, yet he had recommended termination of Brenda's parental rights. The caseworker's recommendation was not made in a vacuum but was supported by years of other professionals' work. Brenda also claims her trial counsel should not have asked her, "Do you think you are in a position today to take the children back in your home?" Her reply was she thought a transition time of two or three months would lead to a more successful reunification. We find neither claim resulted in prejudice given the abundance of evidence presented supporting termination of parental rights and deny both claims of ineffective assistance of counsel.

AFFIRMED.