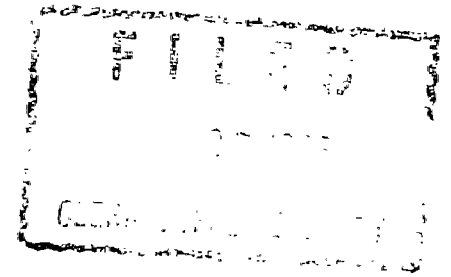


IN THE COURT OF APPEALS OF IOWA

No. 5-308 / 95-0097



**IN THE INTEREST OF C.F., D.F., AND D.F.,
Minor Children,**

D.F., Mother,

Appellant.

Appeal from the Iowa District Court for Johnson County, John R. Sladek,
Juvenile Court Judge.

D.F. appeals the termination of her parental rights. **AFFIRMED.**

Davis L. Foster, Iowa City, for appellant.

Thomas J. Miller, Attorney General, Gordon E. Allen, Deputy Attorney General,
Kathrine S. Miller-Todd, Assistant Attorney General, and Deborah Minot, Assistant
County Attorney, for appellee.

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

HUITINK, J.

Diane appeals a juvenile court order terminating her parental rights to her children, Carmen, born in December 1982, Diana, born in November 1989, and Diane (DeDe), born in November 1990. We affirm.

In 1986 Diane was diagnosed with bipolar disorder with psychotic features. She had been hospitalized at least three times for her mental illness prior to coming to Iowa. Diane has a history of failing to take medications and signing herself out of treatment, against all medical advice.

The family came to the attention of the Iowa Department of Human Services in early 1992 after Diane allowed an intoxicated friend to take Carmen to school. The friend became lost, and the two wandered around in subzero temperatures until police picked them up. During its investigation the department learned of two founded child abuse reports in Illinois, one listing Diane as the perpetrator.

In February 1992 the department filed an abuse report against Diane for failing to provide supervision for Carmen. Diane refused all services offered by the department. After the filing of a second founded report for denial of critical care, the State filed **child in need of assistance (CINA)** petitions in May 1992.

In July the children were removed from Diane's home pursuant to an ex parte temporary removal order. The accompanying affidavit stated Diane's sister Debra, who lives in Chicago, contacted the department and expressed concern for the children

because Diane refused to accept treatment for her mental illness. Debra was also concerned about Carmen's poor attendance at school.

Diane was involuntarily committed for psychiatric treatment in Iowa City in August 1992. The committing court also ordered interstate compact to investigate placement of Diane's children with her sister Debra in Illinois. The juvenile court ordered the children removed in September 1992 after Diane stipulated she could not care for the children and continued foster care was necessary. Although the department arranged significant visitation, Diane failed to avail herself of these opportunities.

Diane walked away from the locked unit of the psychiatric hospital in Iowa City and returned to Chicago. She was subsequently hospitalized on several occasions in Illinois. Diane did not attend the October adjudicatory hearing but was represented by counsel. Diane again stipulated the children were CINA because (1) she failed to provide a reasonable degree of care in supervising her children and (2) her mental condition resulted in the children not receiving adequate care. *See* Iowa Code §§ 232.2(6)(c)(2) and 232.2(6)(n).

In December the court granted Debra visitation with the children in Chicago for the holidays. When the children returned to Iowa, they were unkept and became uncooperative in their foster home and school. Carmen reported Diane was at Debra's during the girls' holiday visitation.

The interstate compact home study did not recommend placement in Debra's home because Diane lived in the same building. In December 1993 the Foster Care Review Board reported Diane was incapable of meeting her case permanency plan. In a March review Diane stated she had made progress and could care for the children. She also reported she was not taking any medication and was not being treated by a physician. Lutheran Services recommended termination of Diane's parental rights in May 1994.

The State filed for termination of Diane's parental rights, and trial was set for October 6, 1994. On October 5 Diane filed a motion to continue, stating she was too physically ill and mentally unstable to testify. The court granted the motion, continuing the case to November 4, 1994.

On December 19, the juvenile court entered a ruling terminating Diane's parental rights pursuant to Iowa Code section 232.116(1)(j). The district court concluded Diane's mental illness and her refusal to complete necessary treatment prevented the children from being returned to her care.

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)(5). *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).

Diane contends the grounds for termination provided in Iowa Code section 232.116(1)(j) have not been established. She argues the record fails to show she is dangerous to herself or others. She also claims the record fails to show her mental prognosis prohibits return of the children to her care. We strongly disagree.

Since the children were removed from her care in July 1992, Diane has been in and out of mental hospitals. She has continuously exhibited dangerously bizarre and erratic behavior. Diane has assaulted both her sister and her Illinois guardian ad litem.

Diane has sent threatening letters to the children's foster mother, telling her she "wish[es] you would die or someone in your family would die." In addition, Diane has made incoherent and rambling phone calls to Carmen at all hours of the day or night, telling her to disobey her foster parents. Finally, Diane removed Carmen from Debra's care while the girls were visiting and attempted to abscond with her from Illinois.

The record reveals Diane's prognosis is poor. She has steadfastly refused to cooperate with the department by refusing to sign medical releases necessary to allow

access to her medical records. She denies her need for medication. As a result, her mental instability and resulting behavior have not improved since July 1992. We do not believe the children can be returned to Diane's care under these circumstances.

Diane also contends the juvenile court failed to accommodate her mental illness. She argues the court should have granted her motion to continue the trial.

A ruling on a motion for continuance rests in the sound discretion of the juvenile court. *In re B.K.J., Jr.*, 483 N.W.2d 608, 611 (Iowa App. 1992). Even though the court denied Diane's request, it kept the record open so she could travel to Iowa to testify after the hearing. When Diane failed to show up during the time provided by the court, it allowed her to testify at any time prior to issuance of its ruling. Diane eventually testified on December 2, 1994.

Diane has attempted to use her mental illness to delay court intervention in Iowa and Illinois. Although she refuses to complete treatment necessary for reunification, she has not hesitated to seek hospitalization when she thought it convenient to avoid pending court proceedings.

Diane's obstreperous behavior has frustrated the delivery of services essential to the reunification of her family. As a result, the children have remained in foster care. We do not believe these children should be forced to endlessly suffer the parentless limbo of foster care. *In re R.J.*, 436 N.W.2d 630, 636 (Iowa 1989). We accordingly

conclude the juvenile court did not abuse its discretion in denying Diane's motion for continuance

Finally, Diane argues her parental rights should not be terminated because Carmen objects to the termination of her relationship with her mother. Iowa Code § 232.116(3)(b) (1993). The court's refusal to terminate under these circumstances is discretionary. *In re J.V.*, 464 N.W.2d 887, 890 (Iowa App. 1990).

Carmen is mature enough to understand Diane's mental illness and resulting behavior. She understandably feels a responsibility to protect Diane.

Carmen has made great progress while in foster care. Diana and DeDe have likewise thrived since their placement outside of the home. These children have spent over two years in foster care. 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). Further delay in placing the girls in a permanent home is not justified under these circumstances.

We conclude the best interests of Carmen, Diana and DeDe require termination of Diane's parental rights. Accordingly, the decision of the juvenile court is affirmed.

AFFIRMED.