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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF

MELVIN GRIGGS, DOUGLAS GRIGGS, and ROSEMARI GRIGGS,

Minor Children.

Filed October 19, 1978

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3-61383

Appeal from Marshall District Court - Roger R. Halleck, Judge.

Mother appeals from decree terminating her parental rights. Affirmed.

Carl D. Baker, of Fairall, Fairall & Baker, Marshalltown, for appellant.

Richard C. Turner, Attorney General, Stephen C. Robinson, Special Assistant Attorney General, and George Cosson, Assistant Attorney General, for appellee.

Submitted to Donielson, Acting C.J., Snell, Oxberger and Carter, JJ.

PER CURIAM

This is an appeal from an order of the trial court terminating the parental rights of appellant, Gretchen Huff, with respect to her minor children, Douglas, Melvin, and Rosemari. The proceeding for termination was brought pursuant to chapter 600A, The Code, and therefore our review is de novo. In re Interest of Kelley, 262 N.W.2d 781, 782 (Iowa 1978).

I. Initially Gretchen complains of the action of the county attorney in interrogating her at the hearing concerning her refusal to take a polygraph examination. The trial court sustained her objection to such questions and the State made an offer of proof. Gretchen claims the result of such proceeding was to prejudice the trial court against her.

We agree that the objections were properly sustained, but in the absence of evidence so indicating we cannot agree that it is likely that an offer of proof in a nonjury trial would engender such prejudice against the objecting party as to prevent a fair trial. In any event, we give no weight to such occurrence on our de novo review.

II. Gretchen's other argument is that the record fails to contain clear and convincing evidence supporting the claimed termination as required by § 600A.8. In the present case the trial court found and concluded that Gretchen's parental rights should be terminated because she was "palpably unfit to be a parent because of a consistent pattern of specific conduct before the child and involving the child directly relating to the parent-child relationship, and that said conduct is permanently detrimental to the mental health of the child or children." Such finding accords with the statutory ground for termination of parental rights contained in § 600A.8(5), The Code, and is supported by clear and convincing evidence in the record.

Our review of the record reveals that it contained ample evidence that the environment in which the children are forced to live is an unwholesome one. The particular vice involved is the uncontrolled sexual activity of Gretchen with her present husband (not the father of the children) and others, some of which has involved the children both directly and indirectly. We therefore have no problem in sustaining the action of the juvenile court removing the children from this environment.

The only issue for consideration on the present record is whether termination of parental rights should be ordered at this time or whether the lesser remedy of adjudicating the children in need of assistance (as provided in § 600A.9(1)(b) ) is sufficient. Such a remedy would forestall an adjudication of termination until Gretchen has been afforded further opportunity to establish that she can desist from the practices which the caused the State to seek termination.

As stated in Interest of Kester, 228 N.W.2d 107, 110 (Iowa 1975):

> In appropriate cases we have refused termination in order to give parents additional opportunity to fulfill their responsibilities.

We conclude, however, that the trial court acted properly in declining to accord such additional opportunity in the present case. The conduct giving rise to the removal of the children from the parental home was not of a nature likely to be alleviated during a period of temporary foster care coupled with parental counseling. The record reflects that past efforts of welfare workers to counsel Gretchen with respect to improving her parenting has failed as a result of her marked inability to function in this capacity. We therefore conclude that the action of the trial court in ordering termination was proper.

AFFIRMED.