IN THE COURT OF APPEALS OF IOWA

No. 1999-74 (9-231) \ 98-2204

IN THE INTEREST OF
J.W., R.W., D.W., and A.M.W.,
Minor Children,

B.J.W., Mother,
Appellant.

FILED
MAY 26 1999
CLERK SUPREME COURT

Appeal from the Iowa District Court for Woodbury County, Mary L. Timko, Associate Juvenile Judge.

Mother appeals the termination of her parental rights to her four children.

AFFIRMED.

Douglas R. Roehrich, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Dewey P. Sloan, Assistant County Attorney, for appellee-State.

John Polifka, Sioux City, Guardian ad litem for minor children.

Considered by Vogel, P.J., Zimmer, J., and Peterson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1997).

PETERSON, S.J.

Bobbie Jo appeals the juvenile court's decision to terminate her parental rights, contending the termination is not in the best interest of her children. We affirm the termination of parental rights.

Bobbie Jo is the mother of Jose, born July 1990; Raymond, born October 1991; Darsie, born March 1993; and Anna Marie, born May 1996. Bobbie Jo and the three older children came to the attention of the Department of Human Services (DHS) in April 1995, when reports were received the home was filthy and Bobbie Jo traveled to Mexico twice a month with her boyfriend leaving the children with inappropriate caretakers. Jose, Raymond and Darsie were the subjects of a founded child abuse report for denial of critical care, which resulted in the family voluntarily receiving DHS services. Despite the services, the children were removed from the home in November 1995, when there was another founded report against Bobbie Jo. The home was filled with trash and rotting food; there were no beds, only two soiled mattresses; the plumbing in the bathroom did not work; the bathtub was filled with a black, moldy substance and a urine smell filled the home. After the removal, Bobbie Jo admitted she was addicted to crank. Jose, Raymond and Darsie were adjudicated children in need of assistance in December 1995, and placed in foster care.

Bobbie Jo entered treatment at the Villa Program; while in treatment, she gave birth to Anna Marie in May 1996. In July 1996, the three older children were returned to the care of their mother. After Bobbie Jo completed the Villa Program,

the family moved to an apartment in August 1996. The children remained under the care of their mother until she was arrested for driving without a license in October 1997. Raymond, Darsie and Anna Marie were placed in foster care and Jose was returned to his mother. Anna Marie was adjudicated a child in need of assistance in November 1997, and returned to the care of Bobbie Jo.

At a review hearing in April 1998, the court was concerned with the deterioration of Bobbie Jo's parenting. Raymond and Darsie remained in foster care, while the court allowed Jose and Anna Marie to stay with Bobbie Jo granting her once last chance to pull her life together. Bobbie Jo was informed of the steps she must take over the next three months in order to dispel the recommendation of terminating her parental rights. She agreed she would make the necessary changes.

Jose and Anna Marie were removed from Bobbie Jo's home after the July 1998 hearing, for Bobbie Jo's failure to follow through with the requirements from the April hearing. Bobbie Jo failed to follow through with pursuing her GED; she still had a pending charge for driving with a suspended license; she did not provide any proof she had been going to her NA/AA meetings, even though there was no evidence she had a relapse; she had three different jobs, holding her current one for the last two weeks; she did not utilize protective day care, instead used a neighbor who had been investigated three times by Child Protective Services; she moved to a basement apartment without telling anyone; she had not shown up for more than thirty scheduled visits and meetings; and she had not followed the medical advice offered to deal with Anna Marie's asthma. A petition for termination of parental rights was

filed in July 1998, and the trial court issued its order terminating parental rights in December 1998.

We review proceedings to terminate parental rights de novo. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). Our primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995).

Bobbie Jo's parental rights were terminated on two separate statutory grounds pursuant to Iowa Code sections 232.116(1)(c) and (d); however she contends termination is not in the best interest of her children. We agree with Bobbie Jo that even if the statutory requirements for termination are met, the decision to terminate must still be in the best interest of the children. *In re N.H.*, 383 N.W.2d 570, 574 (Iowa 1986); *In re D.W.K.*, 365 N.W.2d 32, 34-35 (Iowa 1985). The best interests of the child are paramount considerations in determining whether to terminate parental rights. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re N.H.*, 383 N.W.2d at 574. Case history records are entitled to much probative force when a parent's record is being examined. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993).

After the April 1998 hearing, Bobbie Jo was given one last chance to prove she could get her life in order; however, her actions did not show any true determination on her part to make the changes. She failed to perform the numerous requirements established to regain custody of all of her children. Bobbie Jo testified at the termination hearing it might be in Raymond and Darsie's best interest to terminate her parental rights, but she felt she should retain custody of Jose and Anna Marie. We

disagree and believe termination would be in the best interest of all of the children. We cannot ignore the fact that Raymond and Darsie are now blossoming in foster care while Jose and Anna Marie are languishing under the care of their mother and the alternate caretakers she selects for them. A child needs stability. Jose missed school nine days and was late ten days in the three-month period before he was placed in foster care. There are continued concerns about his weight loss and depression. Anna Marie suffers from severe asthma and there remains a concern Bobbie is not taking the proper precautions to prevent asthma attacks. Bobbie Jo has continued to smoke and brought a large dog into the home, despite the fact she had been told these things could aggravate Anna Marie's asthma. There is also a concern that Bobbie Jo was not adequately cleaning the machines used to control Anna Marie's asthma. Raymond and Darsie have been in foster care for over a year and have established a strong bond with their foster parents. Jose and Anna Marie have been shuffled back and forth from Bobbie Jo to foster care and have not been allowed to develop a bond of security or permanency. Jose constantly asks what his future will hold for him; he and the other children deserve a secure answer. We believe it would be in the best interest of the children to keep them together and allow them to flourish in the stable environment being offered by their foster parents who have expressed a desire to adopt them.

While the law demands a full measure of patience with a troubled parent who attempts to remedy a lack of parenting skills, a child need not endlessly await the maturity of his or her natural parent. To continue to keep children in temporary foster

homes is not in their best interests. *In re M.R.*, 487 N.W.2d 99, 102 (Iowa App. 1992); *In re B.K.J., Jr.*, 483 N.W.2d 608, 611 (Iowa App. 1992). Bobbie Jo has been granted the full measure of patience by the court and her children. She has not been able to use that time and patience to place herself in a position to have these children returned to her care or to have an extended period of time in which to prove herself as an appropriate placement.

We affirm the trial court's decision to terminate the parental rights of Bobbie Jo; termination of her parental rights would be in the best interests of all of the children.

AFFIRMED.

No. 98-2204. [1999-74 (9-231)] IN RE J.W., R.W., D.W., and A.M.W.

Appeal from the Iowa District Court for Woodbury County, Mary L. Timko, Associate Juvenile Judge. **AFFIRMED.** Considered by Vogel, P.J., Zimmer, J., and Peterson, S.J. Opinion by Peterson, S.J. (6 pages $2.40)

Bobbie Jo appeals the termination of her parental rights, contending the termination is not in the best interest of her children. Bobbie Jo is the mother of Jose, born July 1990; Raymond, born October 1991; Darsie, born March 1993; and Anna Marie, born May 1996. Bobbie Jo and the three older children came to the attention of the Department of Human Services in April 1995, when reports were received that the home was filthy and Bobbie Jo was leaving her children with inappropriate caretakers. The family voluntarily participated in DHS services. The children were removed from the home in November 1995, after the home was determined to be uninhabitable and Bobbie Jo admitted she was addicted to crank. The children were adjudicated in need

No. 98-2204. [1999-74 (9-231)] IN RE J.W., R.W., D.W., and A.M.W. (continued)

of assistance and placed in foster care. Bobbie Jo entered drug treatment and gave birth to Anna Marie. In July 1996, the three older children were reunited with their mother. Upon completing treatment Bobbie Jo and the children moved to an apartment in August 1996. In October 1997, Bobbie Jo was arrested for driving without a license. The children were placed in foster care. Jose and Anna Marie were returned to the care of Bobbie Jo after Anna Marie was adjudicated in need of assistance in November 1997. At a review hearing in April 1998, the court was concerned with Bobbie Jo's parenting skills and gave her once last chance to pull her life together. Jose and Anna Marie were removed from the home after the July 1998 review hearing for Bobbie Jo's failure to follow through with the requirements of the court. Bobbie Jo's parental rights were terminated in December 1998. **OPINION HOLDS:** Bobbie Jo contends that even if the statutory requirements for termination were met that the decision to terminate her parental rights was not in the best interest of her children. We have long held that the best interests of the children are paramount considerations in determining whether to terminate parental rights. Bobbie Jo was given once last chance to get her life in order; however, she failed to perform the numerous attempts to regain custody of the children. The requirements ranged from completing her GED to following the medical advice in caring for Anna Marie who has severe asthma. Bobbie Jo testified the termination of her parental rights for Raymond and Darsie was likely in their best interests; however, she did not think the same was true for Jose and Anna Marie. We disagree. Raymond and Darsie are flourishing in foster care, while Jose and Anna Marie struggle for stability in Bobbie Jo's care. There are continued concerns about Bobbie Jo's care of the two children and we believe it is in the best interests of all of the children to terminate Bobbie Jo's parental rights. The children do not need to endlessly await the maturity of Bobbie Jo. She has been granted the full measure of patience by the court and her children. Termination of Bobbie Jo's parental rights is in the best interests of her four children. We affirm the trial court's decision.