

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF)
R.D.P., Jr., M.P., J.P.,)
and P.G.P., Children,)

R.D.P., Sr., Father,)
Appellant.)

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CLERK SUPREME COURT

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Appeal from the Iowa District Court for Scott
(Juvenile) County (Nos. J(T) 5401-0887, 5402-0887,
5494-0887), James A. Weaver, District Associate Judge.

The father of four children appeals from the juvenile court order terminating his parental rights. **AFFIRMED.**

Gary D. McKenrick of Gomez, May, McKenrick & Kelly,
Davenport, for appellant father.

Thomas J. Miller, Attorney General; Kathrine S. Miller-Todd, Assistant Attorney General; and Realff Ottesen, Assistant Scott County Attorney, for appellee State.

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

HABHAB, J.

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This case involves four children: a boy born in September 1981, a girl born in March 1984, and boys born in February 1985 and February 1986.

Prior to 1985, these children lived with their parents, who were married to each other, and with their mother's two older daughters. In December 1985, the three oldest of the children involved here, along with the older stepsisters, were removed from the parents' home on an emergency basis. In February 1986, these children were adjudicated to be children in need of assistance and were placed in foster care, where they have since remained.

The youngest child had not been born at the time of the December 1985 emergency removal. This child was adjudicated to be a child in need of assistance in June 1986, when he was about four months old. At that time he was placed in foster care where he has since remained.

In August 1986, the State filed a petition to terminate parental rights. With regard to the four children involved here, the petition sought to terminate the parental rights of both parents. In addition, with regard to the two older stepsisters, the petition sought to terminate the parental rights of the mother and of the two men she named as fathers of those children.

After a hearing, the juvenile court did terminate the parental rights of the mother, the father of these four

children, and the putative fathers of the two older children. The juvenile court relied on the grounds for termination stated in Iowa Code sections 232.116(1)(c) and (e) (Supp. 1987). Those sections state, respectively:

1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

* * *

c. The court finds that all of the following have occurred:

(1) One or both parents have physically or sexually abused the child.

(2) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(3) There is clear and convincing evidence that the parents were offered but refused services or failed to cooperate to correct the situation which led to the abuse or that the parents had received services to correct the situation which led to the abuse but the services did not correct the abusive situation.

* * *

e. The court find that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months.

(3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.

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The father has appealed from the termination of his parental rights with regard to his four children. The mother apparently has not appealed from the termination order. The father challenges the sufficiency of the evidence to establish that his four children cannot safely be returned to his custody.

Appellate review of proceedings to terminate a parent-child relationship is de novo--the reviewing court may review the facts as well as the law and adjudicate the parents' rights anew. In Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981). However, weight is to be accorded the findings of the juvenile court, particularly as regards the credibility of witnesses. Id.

Central to a determination of this nature are the best interest of the child. Dameron, 306 N.W.2d at 745. Those best interests are to be determined by looking at the child's long-range as well as immediate interests. Id. The court is to consider what the future likely holds for the child if that child is returned to his or her parents. Id. Insight of that determination is to be gained from evidence of the parents' past performance, for that performance may be indicative of the quality of the future care that the parent is capable of providing. Id. Case history records are entitled to much probative force when a parent's record is being examined. Harter v. State, 149 N.W.2d 827, 829 (Iowa 1967).

The Iowa Supreme Court has often recognized "that there exists a parental interest in the integrity of the family unit; nonetheless we also are cognizant that this interest is not absolute, but rather may be forfeited by certain parental conduct." Dameron, 306 N.W.2d at 745. The State has the duty to see that every child within its borders receives proper care and treatment and must intercede when parents abdicate that responsibility. Id. The termination statutes are preventative as well as remedial. Id. Under those statutes, the State must act to prevent probable harm to a child and need not delay until harm has actually occurred. Id.

Termination may occur under the statute where there is clear and convincing evidence that the child has been in foster care for twelve months and would probably suffer harm if returned home. Iowa Code section 232.116(1))(e) (Supp. 1987); In re Interest of Chad, 318 N.W.2d 213 (Iowa 1982). The child should not be forced to endlessly suffer the parentless limbo of foster care. Long v. Long, 255 N.W.2d 140, 146 (Iowa 1977). He or she need not endlessly await the maturity of his or her natural parent. In Interest of T.D.C., 336 N.W.2d 738, 744 (Iowa 1983). Termination must occur if enough time (twelve to eighteen months) has passed and the parent still cannot take care of the child. Id.

The recent case of In Interest of A.M.S., ⁹⁹ 419 N.W.2d 723 (Iowa 1988), states that the requirement of Iowa Code section 232.116(5)(c) (now see Iowa Code § 232.116(1)(e)(3) (Supp. 1987)) "is met when the child cannot be returned to the parental home because the definitional grounds of a child in need of assistance, Iowa Code § 232.2(6), exist." Id. at 725. If any one of the grounds listed in Iowa Code section 232.2(6) can be proven by clear and convincing evidence, there is a sufficient basis for the termination. Id. It is not necessary that the original grounds for the adjudication be found to still exist. Id.

The record reveals the following matters. At the time of the December 1985 emergency removal, the family was living in extreme filth and crowded conditions with a number of the mother's adult and juvenile relatives. Social workers believed that the children had been physically abused by their parents and had also been sexually abused by both parents and by several of the mother's relatives. The mother's extended family is described as one where sexual abuse of children is a commonplace event. In addition to violence and sexual abuse, the children suffered from severe neglect, environmental deprivation, and unsafe living conditions.

The trial court found that if the children were returned, the harm they would be subjected to would be physical abuse, sexual abuse, and extreme neglect. We

agree The record supports this conclusion. The extreme neglect is manifest in the horrible conditions which existed at the time the children were removed. Just weeks before the termination, the parents were residing in almost the same conditions, conditions which appellant did not feel merited removal, according to his statements which are documented in the termination report of July 21, 1987.

Based on our review of the record, we find that the grounds for terminating parental rights relied on by the trial court in this case, Iowa Code sections 232.116(c) & (e) (Supp. 1987), have been met. The court's decision is supported by clear and convincing evidence.

AFFIRMED.