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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF W.I.R., A child,	)	Filed March 9, 1988
D.S., Natural Mother,	)	7-579 / 87-963
Appellant.		301

Appeal from the Iowa District Court for Linn County (No. JT 643), Sylvia A. Lewis, Juvenile Referee.

The natural mother of a fourteen-year-old boy appeals from the juvenile court's order terminating her parental rights. **AFFIRMED.**

John L. Lane of Lane & Snead, Cedar Rapids, for appellant mother.

John M. Heckel of Holden, Steggall & Heckel, Cedar Rapids, guardian ad litem for the child (appellee).

Thomas J. Miller, Attorney General; Valencia Voyd McCown, Assistant Attorney General; and Robert A. Kimm, Assistant Linn County Attorney, for the appellee State.

Considered by Hayden, P.J., and Sackett and Habhab, JJ.

HAYDEN, P.J. 302

D.S., the natural mother of W.I.R., a fourteen-year-old boy, appeals the order of the juvenile court terminating her parental rights. She asserts the court erred by taking judicial notice of certain portions of W.I.R.'s child-in-need-of-assistance (CHINA) file and of prior termination orders involving her other children. D.S. also contends the evidence in this case was insufficient to warrant termination. We affirm.

Our review of the record is de novo. In the Interest of K.L.C., 372 N.W.2d 223, 227 (Iowa 1985); In re Goettsche, 311 N.W.2d 104, 106 (Iowa 1981). We give weight to the fact findings of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7); In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

We do not address D.S.'s assertions the juvenile court erred by taking judicial notice of portions of W.I.R.'s CHINA file and prior termination orders involving D.S.'s other children. We find the juvenile court's action, even if erroneous, did not constitute reversible error since we conclude, without resort to the allegedly inadmissible evidence, that the termination of D.S.'s parental rights was appropriate. In the Interest of Adkins, 298 N.W.2d 273, 278 (Iowa 1980).

The termination petition filed by the State alleged termination was justified under Iowa Code sections 232.116(2), 232.116(4), and 232.116(5). The juvenile court found termination was proper under section 232.116(5) and did not address the applicability of the other Code sections. We agree the application of section 232.116(5) is dispositive in this case.

Iowa Code section 232.116(5) states that the termination of parental rights may be ordered by the court if:

The court finds that:

a. The child has been adjudicated a child in need of assistance pursuant to section 232.96; and

b. 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; and

c. 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.

Id.

W.I.R. was adjudicated a child in need of assistance on December 23, 1975. Since that time he has had at least fourteen physical care placements, of which only two were with D.S. The most recent placement with D.S. was from May to November in 1980. D.S. does not dispute that W.I.R. cannot be returned to her custody at this time or, for that matter, at any time during the remainder of his minority. It is clear from these facts the requirements of Iowa Code section 232.116(5) are satisfied.

D.S. nonetheless contends the termination of her parental rights is not in the best interests of W.I.R. See In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981). We disagree. W.I.R. has a history of severe behavioral problems stemming, in large part, from the problematic relationship with his mother, D.S. The diagnoses of his psychological problems include undersocialized reaction, aggressive type with attention deficit disorder, and hyperkinesis. All of the medical authorities at trial agreed W.I.R.'s slim chances for therapeutic progress require that contact between he and D.S. be prevented. This was due to the detrimental impact such contact has had on W.I.R. in the past. Furthermore, there is evidence the elimination of the possibility of future contact between W.I.R. and D.S. would be beneficial to him. Under these circumstances, we conclude the termination of D.S.'s parental rights is in the best interests of W.I.R., and the juvenile court was correct in doing so pursuant to Iowa Code section 232.116(5).

AFFIRMED.