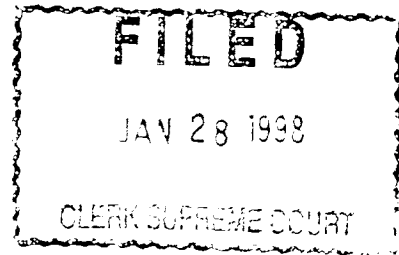


IN THE COURT OF APPEALS OF IOWA

No. 7-720 / 97-1290

000329

IN THE INTEREST OF R.W., N.W., and K.P.,
Minor Children,
S.M., Mother,
Appellant.



Appeal from the Iowa District Court for Poweshiek County, Michael R. Stewart, District Associate Judge.

The mother appeals from an order terminating her parental rights to R.W., N.W., and K.P. **AFFIRMED.**

Nancy L. Burk, Toledo, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, and Anita M. Olson, Assistant County Attorney, for appellee-State.

Donald L. Schild, Grinnell, guardian ad litem for minor children.

Considered by Cady, C.J., and Sackett and Huitink, JJ.

PER CURIAM.

The question in this appeal is whether we should affirm the trial court's June 17, 1997 decision terminating the mother's parental rights to Roberta, born January 31, 1985; Natasha, born March 26, 1988; and Katrina, born December 28, 1989. The mother, Sandra, has voluntarily relinquished her parental rights to Thomas, born July 21, 1991; he is not involved in this appeal. Sandra's two ex-husbands, the father of Roberta and Natasha and the father of Katrina, had their parental rights terminated previously and are not parties to this appeal.

The State first removed the children from Sandra's home in September 1992 under a temporary removal order while Sandra was voluntarily hospitalized for psychiatric treatment. Other hospitalizations followed. Sandra acknowledges her family has a history of sexual abuse and incest of which she was a victim. Earlier in the year, there was a founded report that Roberta was sexually abused by members and friends of Sandra's family. By stipulation, the children were found to be children in need of assistance in January 1993 pursuant to Iowa Code section 232.2(6)(c)(2) (1993) (failure to supervise). The court returned Roberta to Sandra's custody following a dispositional hearing in July 1993, and the other children returned to her care after a hearing in December 1993.

The children were again removed from Sandra's home on June 2, 1995. The State indicates this occurred because Sandra's current husband, Vernon, physically abused Roberta and Thomas, and Sandra was denying her children critical care.

Sandra explains the removal occurred because of Department of Human Services concerns over the conditions in her home, which one social worker characterized as "about as bad as it gets." The children have remained in specialized foster care since that time.

Sandra first had supervised visitation and then unsupervised visitation. The State contends the children's behavior and personal hygiene would deteriorate following the visits with their mother. Sandra and Vernon moved to a different home in January 1997, which Sandra characterizes as more suitable and the State depicts as inadequate.

The State commenced termination proceedings with respect to Roberta, Natasha, and Katrina in February 1997. The court terminated Sandra's parental rights on June 17, 1997 pursuant to Iowa Code section 232.116(1)(e) (1997). The only issue in dispute was whether clear and convincing evidence existed the children could not be returned to Sandra's custody. In its decision, the court noted several points stood out from the evidence: the removal had a positive effect on the children, who were in a fragile situation and in need of a structured environment; the unsupervised visits had a negative effect on them; and Sandra continued to be unstable. The court also noted there was no evidence of a mother-child bond which would make termination detrimental to the children. All of the care providers testified it would not be in the children's interests to be returned to Sandra. The children expressed misgivings about their mother's ability to care for and protect them. The court

concluded Sandra would be unable to provide for her children if they were returned to her.

Sandra on appeal contends she has made positive strides in her life which address the areas of the State's concern. She advances she has tried to obtain suitable employment, has become involved in a church community, and has done her best to make a decent home for her children. She emphasizes her only mental health concern is depression and this should not be a deciding factor in the decision whether to terminate her parental rights. She also contends it is unfair to compare her parenting ability with the specially-trained foster parents.

We review the termination of parental rights de novo. *In re M.L.O.*, 477 N.W.2d 393, 394 (Iowa 1991). We give weight to the findings of the trial court, especially concerning the credibility of witnesses, but are not bound by them. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990).

Iowa's parental termination statutes are preventative as well as remedial. *In re E.B.L.*, 501 N.W.2d 547, 549 (Iowa 1993). The statutes are designed to prevent probable harm to a child. *Id.* We look to the child's long-range as well as immediate interests. *In re L.L.*, 459 N.W.2d at 493. This requires considering what the future holds for the child if returned to the parent. *Id.* at 493-94. When making this decision, we look to the parent's past performance because it may indicate the quality of care the parent is capable of providing in the future. *Id.* at 494.

The State has a duty to see that every child within its borders receives proper care and treatment. *In re J.W.D.*, 456 N.W.2d 214, 217 (Iowa 1990). This includes at a minimum proper food, clothing, discipline, and supervision because "[e]very child deserves a safe, healthy and stimulating environment in which to grow and mature." *Id.* The State must make reasonable efforts to reunite a parent and child before terminating parental rights. *In re T.C.*, 522 N.W.2d 106, 108 (Iowa App. 1994); *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994).

For the court to terminate Sandra's parental rights under Iowa Code section 232.116(1)(e), the State must present clear and convincing evidence of four elements:

1. The child is four years of age or older.
2. The child has been adjudicated a child in need of assistance pursuant to section 232.96.
3. The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
4. There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Id. Only element four is in dispute in this appeal.

We recognize Sandra has improved her ability to maintain a home and to provide for her children. However, because of past abuse and neglect, which Sandra did not prevent, her three daughters have special needs. Recent contacts between Sandra and her daughters caused them to retreat from progress made in foster care. We find returning the children to Sandra's custody would be harmful to them. The

children need stability and a structured environment. Sandra cannot provide what they need, even with help from the State. We must place a reasonable limit on the time for parents to be able to assume care of their children, because patience with parents can soon translate into intolerable hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1993).

We note our concern for the future of these three girls. They will present problems for any adoptive parents. They need adoptive parents who are willing to make a substantial commitment to help them with their problems. Although we recognize termination carries with it no guarantee that Roberta, Natasha, and Katrina will find homes, we find termination of Sandra's parental rights proper in this case. We can only trust the State will be diligent in assuring the children have a stable environment.

AFFIRMED.