IN THE COURT OF APPEALS OF IOWA

No. 0-359 / 90-128

FILED
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CLERK SUPREME COURT
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IN THE INTEREST OF S.P., N.S., and C.S., Minor Children,

L.S.S., Mother,

Appellant.

Appeal from the Iowa District Court for Delaware County, Charles H. Jacobs, Juvenile Referee.

The mother appeals from the juvenile court order which terminated her parental rights to her daughter and two sons. **AFFIRMED.**

Jeffrey P. Berg, Cedar Rapids, for appellant mother.

Thomas J. Miller, Attorney General; Gorden E. Allen, Deputy Attorney General; and Judy Sheirbon, Assistant Attorney General, for appellee State.

Heard by Oxberger, C.J., and Hayden and Habhab, JJ.

HAYDEN, J. 223

This case is an appeal by the mother, L.S.S., from the juvenile court order which terminated her parental rights to her daughter S.P., born April 25, 1979, her son, N.S., born June 14, 1984, and her son, C.S., born October 9, 1985

The children have been in foster care off and on since 1985 and continuously since October 1987. They were adjudicated children in need of assistance in March 1988. Following the adjudication, the court granted the Department of Human Services custody of the children for continued foster care. This placement was continued pursuant to the April 1988 dispositional order.

After termination hearings, the ordering terminating the mother's and both natural fathers' parental rights was filed December 26, 1989. The mother has filed this appeal. Neither father has appealed the termination order.

L.S.S. contends the juvenile court erred because there was not clear and convincing evidence termination of her rights was in the best interests of the children pursuant to Iowa Code § 232.116(1)(e). We affirm the termination order.

Our review of termination proceedings is de novo. In Interest of D.T., 418 N.W.2d 355, 355-56 (Iowa App. 1987). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14 (f)(7). Our paramount concern is the welfare and the long-term, as

well as immediate, best interests of the children. In Interest of D.T., 435 N.W.2d 323, 329 (Iowa 1989). In Interest of S.V., 401 N.W.2d 201, 202 (Iowa App. 1986).

L.S.S.'s parental rights were terminated pursuant to Iowa Code § 232.116(1)(e), (1989). Under this section, the court may order termination if: (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, and (3) the State proves by clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in Section 232.102. In Interest of A.C., 415 N.W.2d 609, 612 (Iowa 1987). It is this last requirement L.S.S. argues the State failed to prove.

The third requirement of 232.116(1)(e) is met when the child cannot be returned to the parental home because the definitional grounds of a child in need of assistance, as spelled out in Iowa Code § 232.2(6), exist.

Our de novo review leads us to conclude there is clear and convincing evidence L.S.S. has failed to protect her children from physical and sexual abuse while they were in her care. There is testimony and evidence in the record to show L.S.S.'s two daughters were sexually abused by a man, J.P., with whom she had left the children. A founded denial of critical care report against L.S.S. resulted from

an incident during which one of the children received a bump on his head during a fight between L.S.S. and another woman. After the children's CHINA adjudications and during an overnight visitation, L.S.S. allowed S.P. to stay overnight with a couple whom L.S.S. knew committed sexual abuse in the past. After the visit S.P. stated she had been sexually abused.

L.S.S. has married a man who has physically abused her. She admitted there is some fear his abuse would threaten the children. Her husband, L.S., has a history of sexual abuse of children.

Although many of L.S.S.'s unstable characteristics which led to the children's adjudications continue, her marriage to L.S. and decision to keep living with him present a new and more immediate threat to her children. They would clearly be at risk of sexual abuse, which their mother has not been able to protect them from in the past.

The bests interests of these children are served by termination of L.S.S.'s parental rights.

AFFIRMED.