

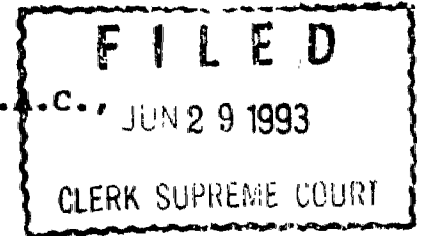
IN THE COURT OF APPEALS OF IOWA

No. 3-337 / 93-445

IN THE INTEREST OF V.M.B., C.L.B., J.L.C. and M.A.C.,
Minor Children,

R.B., Mother,

Appellant.



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Appeal from the Iowa District Court for Woodbury
County, Brian L. Michaelson, Juvenile Court Judge.

R.B. appeals the district court's termination of her
parental rights to V.M.B., C.L.B., J.L.C. and M.A.C.

AFFIRMED.

Sherry Stenzel Schulte of O'Brien, Galvin, Moeller &
Neary, Sioux City, for appellant.

Bonnie J. Campbell, Attorney General, John M. Parmeter,
Special Assistant Attorney General, and Kathrine S.
Miller-Todd, for appellee State.

Michael O'Brien, Juvenile Law Center, Sioux City,
guardian ad litem.

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

000016**OXBERGER, C.J.**

R.B. is the mother of six children: V.M.B., born May 27, 1985; C.L.B., born April 27, 1986; J.L.C., born September 25, 1987; M.A.C., born November 1, 1988; J.C., born July 5, 1990; and A.C., born August 3, 1991. This case concerns the four older children.

In March 1989, a report of denial of critical care was founded against R.B. She later admitted to breaking M.A.C.'s leg when she became frustrated with his inability to keep still when she was changing his diaper. In October 1990 the children were removed from the home of W.B., R.B.'s adoptive father and the person with whom the children were living. A founded abuse report was filed against W.B., and the children were subsequently adjudicated CINA pursuant to Iowa Code section 232.2(6)(c)(2).

The children were placed in foster care. R.B. agreed with this arrangement, stating that she had a substance abuse problem and was not able to handle her four children yet. R.B. failed to complete treatment programs in the following months and a CINA petition was filed on behalf of her two younger children, J.C. and A.C. R.B. completed family preservation with J.C. and A.C. and the CINA petition was dismissed.

However, R.B. continued to be sporadic with her attendance at, and motivation for, other treatment programs. Specifically, R.B. did not satisfy the DHS that

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she was free of chemical dependency. A permanency hearing was held at which R.B. did not appear. The district court ordered the county attorney to file a petition for termination.

At the termination hearing, R.B. testified she was ready for the custody of her four children. She said DHS had not discussed the option of family preservation with her in regard to these children. She claimed she would have considered participating in family preservation, especially as it had succeeded with her two younger children. R.B. further testified she had not had any alcoholic or chemical substances since November 1991, and that her urinalysis tests prove this. She also claims she attends AA two to three times a week.

Dr. Greg Roberts testified that R.B. suffers from severe depression, but has been better since taking anti-depressants. He also testified R.B. does not suffer from any of the mental disorders alleged by the social worker. Furthermore, Dr. Roberts believed a DHS report of R.B.'s disorders was inaccurate and appeared to be biased.

The State presented evidence that R.B. scored 150 points, about the highest rating, on the scale for the child abuse potential inventory. The State also argued that R.B. has never bonded with her four children; they call her by her name and call W.B.'s girlfriend "mom."

The district court terminated R.B.'s parental rights to her four older children pursuant to Iowa Code section 232.116(1)(e) (1991).

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R.B. appeals.

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984) cert. denied sub nom. J.G. v. Tauke, 469 U.S. 1222 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. Id. at 491-92.

The primary concern in termination proceedings is the best interest of the child. Iowa R. App. P. 14(f)(15); In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

We look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

In re R.M., 431 N.W.2d 196, 199 (Iowa App. 1988) (citing Dameron, 306 N.W.2d at 745).

Iowa Code section 232.116(1)(e) (1991) permits the juvenile court to terminate the parent-child relationship if the court finds all of the following have occurred:

- (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 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, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

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(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.

In determining whether the children may be returned to his or her parents, we look to the parent's past performance as it may be indicative of the quality of future care the parent is capable of providing. In re L.L., 459 N.W.2d 489, 493-94 (Iowa 1990). We are mindful of the amount of time we allow parents to mature because "[p]atience on behalf of the parent can quickly translate into intolerable hardship for the children." In re R.J., 436 N.W.2d 630, 636 (Iowa 1989). We are unwilling to suspend the crucial days of childhood while parents experiment with ways to face up to their own problems. In re A.C., 415 N.W.2d 609, 613 (Iowa 1987). The supreme court has been emphatic that after the statutory limit of twelve months, the case must be viewed with a sense of urgency. In re L.L., 459 N.W.2d at 495.

The mother's chemical dependency problems are serious. She indicated when she uses chemicals she experiences severe personality changes. R.B. stated she had slapped the girls and pulled their hair and that she had slammed J.L.C.'s head against the floor and spanked him so hard she was unable to stop. She also broke M.A.C.'s leg. DHS claims the mother has once again become uncooperative since the CINA petition was dismissed on her two younger children. In addition, the mother has not parented nor

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bonded with these children. While she claims she left her treatment program to see her children, she made no attempts to see them the month following her return. She missed M.A.C.'s birthday. The mother's prognosis to maintain recovery from her chemical dependency has ranged from poor to fair.

Based on this evidence, we find the juvenile court's decision to terminate R.B.'s parental rights supported by clear and convincing evidence. We are simply unable to continue to gamble with the safety and well-being of these children. They require stability and permanence which R.B. has not demonstrated she can provide. We affirm the juvenile court.

AFFIRMED.

Schlegel, J., concurs; Sackett, J., concurs without opinion.