FILED
JAN 2 5 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-571 / 89-1000

IN THE INTEREST OF J.D., A Minor Child,

K.D., Natural Mother,

Appellant,

R.D., Stepfather,

Appellant.

Appeal from the Iowa District (Juvenile) Court for Dubuque County, Charles H. Jacobs, Judge.

The mother and stepfather of a child appeal from the termination of their parental rights. **AFFIRMED.**

Dirk J. Hamel of Norman, Gilloon & Wright, Dubuque, for appellant mother.

William A. Lansing, Dyersville, for appellant stepfather.

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

Heard by Schlegel, P.J., and Hayden and Habhab, JJ.

PER CURIAM

The natural mother, K.D., and stepfather, R.D., appeal from an order terminating their parental rights. The issue presented is whether there is clear and convincing evidence J.D., a male child born August 15, 1986, cannot be returned to them. We find there is and affirm the order of termination.

The rights of the unknown natural father have been terminated by a separate order. There is no appeal from that order.

On February 18, 1987, the child was adjudicated a child in need of assistance. The parental rights of K.D. and R.D. were terminated by court orders of May 25 and June 13, 1989, respectively. He was placed with the Iowa Department of Human Services for the purposes of adoption. The juvenile referee relied upon Iowa Code section 232.116(1)(e) (1989), formerly section 232.116(5). 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. The mother and stepfather contend the third requirement was not met, and this is their claim on appeal.

Our review is de novo. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

K.D. and R.D. have a history of continual violence and bitterness toward each other. The child was first removed when R.D. was arrested for assault and K.D. was arrested at the police station for calling the child vulgar names and threatening to beat him. This was November 19, 1986. Their violence toward each other, their neighbors, and others continued to the time of the termination hearing. On the night of March 13, 1989, R.D. attacked his neighbor and hit him with a pool cue. R.D. had been drinking. In February 1988, K.D. reported R.D. physically and sexually abused the child. R.D. has beaten K.D. repeatedly. R.D. has been diagnosed an alcoholic. He has not followed through with counseling and refuses to attend Alcoholics Anonymous. He has a lengthy arrest record. K.D. has a violent temper and is unable to control it. She has threatened this child and called him vulgar names. Their evaluations showed R.D. had an antisocial personality disorder and suffered from alcoholism. K.D. had a schizotypal personality and a substance abuse disorder in remission. They are unresponsive to the needs of J.D. They are both over aggressive with poor behavioral controls. They have not cooperated with their case workers and others. Some of the Iowa Department of Human Services staff have declined to work with R.D. and K.D. because of continued threats against them.

Upon our de novo review of this record, we agree with the juvenile referee. Nearly every service available has been employed to assist K.D. in attempting to care for her child on a full-time basis. These services have made no difference in her ability to care for her child.

The effects of R.D.'s and K.D.'s hostile and violent conduct have left their mark on the child, J.D. The evidence shows he cries and becomes very frightened. He has gone to a corner in the room and stood there shaking. When taken for visits to his mother and stepfather, he would just stand still for ten minutes or more, just staring straight ahead. A foster parent testified when J.D. was first placed in her home he would enter a room and stand still for up to twenty minutes and make no response to questions. He was afraid to be in a room with the door shut. He would awaken in the morning yelling and screaming. He would not allow anyone to touch him. At first, J.D. was afraid of all men. Now he allows the foster parents' sons to touch him, but he refuses to go anywhere with them. He still does not sleep well, has nightmares, and is not a good eater. He still shows great fear.

It is apparent to us the mother and stepfather have refused or failed to cooperate with the workers and agencies to correct their behavior. This conduct has a marked effect upon the child, J.D. This continued

emotional and/or physical abuse and neglect is not in the best interests of this child.

Central to a determination of this nature are the best interests of the child. In this connection, we look to the child's long-range as well as immediate interest. Hence, we necessarily consider what the future likely 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 that parent is capable of providing. "[O]ur statutory termination provisions are preventative as well as remedial. They do not require delay until after the harm has occurred." In the Interest of R.J., 436 N.W.2d 630, 635 (Iowa 1989) (citations omitted). Here there is only feeble resistance by K.D. and none by R.D. to temptation and wrongdoing, and little or no consideration for the unwholesome influences created on the moral or mental welfare of the child, J.D. In these circumstances, we cannot gamble with the child's future. He must not be made to await his mother's and stepfather's maturity. See id. at 636.

We hold there is clear and convincing evidence in this record showing the child cannot be protected from some harm which would justify the adjudication of the child as a child in need of assistance if returned to his mother's custody. Therefore, the juvenile referee correctly terminated K.D.'s parental rights to J.D. See id. at 635.

It necessarily follows the stepfather's, R.D.'s, interests as to the child, J.D., are terminated upon the natural mother's, K.D.'s, parental rights being terminated. We note there are no parental rights conferred upon R.D. as a stepparent.

AFFIRMED.