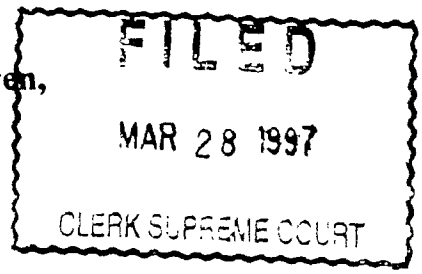
IN THE COURT OF APPEALS OF IOWA

No. 7-115 / 96-1493



IN THE INTEREST OF A.S. and K.S., Minor Children,

A.K.S., FATHER,
Appellant,

C.S., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Artis Reis, District Associate Judge.

A mother and father appeal from the termination of their parental rights. **AFFIRMED.**

Marcia L. Schober, Des Moines, for appellant mother.

William G. Brewer of Cook, Gotsdiner, McEnroe, & McCarthy, Des Moines, for appellant father.

Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney General, Chris Odell, Assistant Attorney General, and Ray Blase, Assistant County Attorney, for appellee State.

Nicole Garbis, Des Moines, for minor children.

Considered by Sackett, P.J., and Cady and Streit, JJ.

SACKETT, P.J.

Clarissa and Arthur, the parents of six children, appeal from an order terminating their parental rights to their two youngest children, Annabelle, born in 1986, and Katie, born in 1989. We affirm.

The six children were found children in need of assistance in 1990. Services were provided and the children remained in Clarissa's care. In July 1994 Clarissa voluntarily placed the children in foster care. Annabelle and Katie were returned to Clarissa's home in January 1995. In August 1995 they were placed with relatives, and in November 1995 they returned to foster care. They have remained in foster care since that time.

A petition to terminate Clarissa and Arthur's parental rights to Annabelle and Katie was filed in April 1996. The State sought to terminate Clarissa's parental rights pursuant to sections 232.116(1)(c), 232.116(1)(j) (child adjudicated CINA and custody has been transferred from parents; parent has a chronic mental illness and has been repeatedly institutionalized for mental illness and presents a danger to self or others as evidenced by prior acts; and there is clear and convincing evidence that parent's prognosis indicates child will not be able to be returned to custody of parent within a reasonable period of time considering the child's age and need for a permanent home), and 232.116(1)(k) (child adjudicated CINA and custody has been transferred from parents; parent has severe, chronic substance abuse problem and

presents a danger to self or others as evidenced by prior acts; and there is clear and convincing evidence the parent's prognosis indicates the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home). The State sought to terminate Arthur's parental rights pursuant to Iowa Code section 232.116(1)(c) (child or member of family has been adjudicated CINA due to physical or sexual abuse or neglect as the result of the acts or omissions of one or both parents; the parents were offered or received services to correct the circumstances which led to the adjudication; and the circumstances continue to exist despite the offer or receipt of services).

Following a trial, the juvenile court terminated Clarissa and Arthur's parental rights to Annabelle and Katie. The termination order did not specify the code sections it relied on. It found the allegations of the termination petition had been sustained by clear and convincing evidence. The parental rights to the other four children have not been terminated. One child is over eighteen years of age. The others are in foster homes.

We review de novo. *In re M.S.*, 519 N.W.2d 398, 399 (Iowa 1994); *In re L.M.W.*, 518 N.W.2d 804, 805 (Iowa App. 1994). The State must prove the allegations of its petition by clear and convincing evidence. *See In re Chad*, 318 N.W.2d 213, 219 (Iowa 1982); *In re T.B.B.*, 460 N.W.2d 881, 882 (Iowa App. 1990).

On appeal, Clarissa argues there was not sufficient evidence to support termination of her parental rights. She contends she should be granted time to control her mental illness and substance abuse problems. She asserts to the best of her ability she cooperated with the provision of services.

Clarissa suffers from mental illness and substance abuse. She experiences mood swings. Her prognosis for recovery is guarded, though medication does help control her illness. Her use of alcohol and illegal drugs compounds her problems. She has attempted suicide. Clarissa asked that the children be placed out of the home on at least two occasions when the responsibility for their care overwhelmed her.

Clarissa loves her children and has made efforts to reclaim them. The children are bonded to her. Annabelle and Katie are now six and nine. Termination will sever their legal ties to their four older siblings. There is no evidence as to the availability of an adoptive home structured to meet their special needs. The guardian ad litem adopts and joins the State's brief but makes no additional arguments.

There is clear and convincing evidence to support termination of Clarissa's parental rights under Iowa Code section 232.116(c), (j), and (k). We affirm the juvenile court.

Arthur contends his parental rights should not have been terminated pursuant to section 232.116(1)(c) because the State failed to prove by clear and convincing evidence that the circumstances which led to the CINA adjudication continued to

exist after his receipt of services. Arthur contends he successfully completed all therapy programs and there was no evidence he posed a risk to Annabelle or Katie.

Arthur engaged in inappropriate sexual behavior with two of his daughters. There is evidence he poses a risk to female children in his custody. He has a history of drug abuse.

There is clear and convincing evidence to support termination of Arthur's parental rights under Iowa Code section 232.116(1)(c). We affirm the juvenile court.

AFFIRMED.