

IN THE COURT OF APPEALS OF IOWA

No. 3-404 / 93-564

FILED

SEP 02 1993

CLERK SUPREME COURT

IN THE INTEREST OF J.F., A.F., K.R.F., and H.L.P.,  
Minor Children,

000229

S.P., Mother,  
Appellant,

R.F., Father of H.F., A.F., and K.R.F.,  
Appellant,

STATE OF IOWA,  
Appellee.

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Appeal from the Iowa District Court for Scott County,  
John G. Mullen, District Associate Judge.

The mother appeals the termination of her parental rights as to H.F., A.F., K.F., and H.P. The father appeals the termination of his parental rights as to H.F., A.F., and K.F. **AFFIRMED.**

Janice Hanrahan Roemer, Davenport, for appellant mother.

Catherine P. Alexander, Bettendorf, for appellant father.

Bonnie J. Campbell, Attorney General, John M. Parmeter, Special Assistant Attorney General, Katherine S. Miller-Todd, Assistant Attorney General, William E. Davis,

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County Attorney, and Jerry Schutte, Assistant County Attorney for appellee State.

James L. Ottesen, Davenport, attorney and guardian ad litem for minor children.

Considered by Donielson, P.J., and Hayden and Sackett, JJ.

**HAYDEN, J.**

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S.P. is the mother of four children: H.F., born October 30, 1988; A.F., born October 11, 1989; H.P., born June 7, 1991; and K.F., born May 17, 1992. S.P. was born on November 29, 1972. R.F. is the father of three of the children: H.F., A.F., and K.F. He was born on January 24, 1965. S.P. and R.F. were never married. The issues concerning the parental rights of H.P.'s father are not part of this appeal.

On December 1, 1990, S.P. brought H.F. to the hospital for examination of injuries to his genitalia. Upon examination, multiple bruises of different ages were also found on various parts of H.F.'s body including forehead, cheeks, neck, chest, abdomen, around the genitals, back, and legs. The doctors, suspecting abuse, examined A.F. Several bruises were also discovered on A.F.'s body. The two children were admitted to the hospital against S.P.'s wishes. A founded report of physical abuse was filed on H.F. and A.F. against S.P.'s boyfriend, R.P. A founded report of denial of critical care was filed against S.P. and R.P. H.F. and A.F. were living with their mother and R.P. at the time of this incident. After hospitalization, the children were placed in foster care. On February 14, 1990, H.F. and A.F. were placed in the custody of their father, R.F., who was residing in Illinois.

On March 12, 1991, the State adjudicated H.F. and A.F. to be children in need of assistance (CINA) pursuant to

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Iowa Code sections 232.2(6)(b) and 232.2(6)(c)(2). The children remained in the custody of R.F.

On March 26, 1991, R.F. sought the assistance of the Iowa Department of Human Services (DHS) and returned H.F. and A.F. to the custody of DHS. R.F. stated he was unable to care for the children.

In December 1991 the State returned custody of H.F. and A.F. to the care their mother. R.F. was residing in the household as he had returned in August 1991. On May 1, 1992, a denial of critical care was filed against S.P. R.F. was still in the household providing child care at the time of the injury. The report stated A.F. had suffered cuts to her eyelid when left unattended in the bathtub. The child required stitches for the injury. On June 4, 1992, S.P. and R.F. had a domestic dispute in which S.P. pulled a butter knife on R.F. and ordered him out of the home. S.P. then resumed her relationship with R.P. Within days of the domestic dispute, S.P. called DHS and requested respite care for all four of her children. On June 9, 1992, the four children were placed in emergency foster care.

In September 1992 the juvenile court adjudicated K.F. and H.P. to be CINA pursuant to Iowa Code sections 232.3(6)(b) and 232.2(6)(c)(2). The court based the adjudication on the mother's homeless status, involvement in abusive relationships, failure to protect the children

from such abusive relationships, and failure of the parents to participate in services.

On March 4, 1993, the juvenile court terminated the parental rights of S.P. as to all four children. The court terminated the parental rights of R.F. as to H.F., A.F., and K.F. The court found each of the children had specialized needs requiring specialized parenting skills S.P. and R.F. did not have. For example, H.F. suffers from attention deficit disorder. A.F. suffers from emotional problems and has problems with her eyes, ears, and bowels requiring special medical attention. The court attributed H.F. and A.F.'s problems to poor parenting. The court determined the risk of further physical abuse or neglect to these four children was high because of the parents' failure to recognize the need for change or to be motivated to change. The mother and the father appeal.

Our 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); Iowa R. App. P. 4. We give weight to the findings of fact of the juvenile court, but we are not bound by those determinations. In re W.G., 349 N.W.2d at 491-92; Iowa R. App. P. 14(f)(7).

Our primary concern in termination proceedings is the best interests of the children. In re J.K., 495 N.W.2d 108, 110 (Iowa 1993); Iowa R. App. P. 14(f)(15). In determining the children's best interests, we consider the children's long-range as well as immediate interests. Id.

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On appeal we address whether clear and convincing evidence supports the termination of parental rights.

I. S.P. and R.F. have failed to exercise reasonable care in supervising their children and have failed to provide a safe and stable environment for their children. Upon separation from his wife in Illinois, R.F. said he was unable to care for H.F. and A.F. and returned them to the custody of DHS in Iowa. R.F. testified at the termination hearing he had no home for the children at that time but he would have to make arrangements to accommodate and care for them.

S.P. has failed to provide a safe, consistent home for her children. She has had relationships with several men and has moved several times, often to residences not her own. From August 1991 to June 1992, S.P. and R.F. cohabited. Evidence indicates this relationship tended to be volatile. R.F. left the household following a domestic dispute in which S.P. pulled a butter knife on R.F. and ordered him out of the home.

S.P. then resumed her relationship with R.P. S.P. admitted R.P. was extremely abusive to her. She, however, had difficulty accepting R.P. had abused her children even though he plead guilty to H.F.'s injuries. S.P. has been reluctant to address domestic violence and abuse issues. She has knowingly exposed her children to abusive environments. S.P. was living with R.P. at the time H.F. and A.F. suffered physical abuse in December 1990. R.P.

was incarcerated in January 1991 for a parole violation. He remained in prison until mid-February 1992 and returned to reside with S.P. in June. At the time of the termination hearing in February 1993, S.P. was residing with her new paramour, Scott.

S.P. and R.F. have shown poor and sporadic compliance with the children's medical care, including delayed immunizations, inattention to illnesses, lack of prenatal care, and failure to attend medical appointments. A.F. received her first set of immunizations at one year of age. These immunizations are generally administered when a child is two months of age. H.F. also failed to receive immunizations on a proper schedule. In March 1991 A.F. was diagnosed with "very severe" bilateral otitis media,<sup>1</sup> right lower lobe pneumonia, and an upper respiratory infection. S.P. failed to seek prenatal care in her pregnancy with H.P. until the sixth month. The repetitive notation of immunization delay and severity of the illnesses reflect irresponsibility on the parents' part.

The parents have missed several medical appointments for the children. For example, R.F. and S.P. missed two of A.F.'s scheduled appointments at Pediatric Neurology in March and April of 1992. The parents have failed to bring A.F. to scheduled appointments for a repeat MRI. They also

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1. Otitis media is defined as an inflammation of the middle ear, which can build up behind the eardrum causing late deafness. 6 Lawyers' Medical Cyclopedia, The Ear, Nose & Throat § 40.6(e) (1977).

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missed A.F.'s ophthalmology follow-up appointment in April and June 1992. The parents have shown a continual failure to follow through with medical appointments for the children. Evidence indicates their inaction has resulted in more severe illnesses in the children because treatments were delayed. S.P. and R.F. have been unable to meet the medical needs of their children. This situation is especially dangerous in light of the children's special needs.

S.P. and R.F. refuse to provide sufficient supervision, a stable environment, and flexibility to adapt to and meet the special needs of their children. The evidence shows all four children have suffered abuse or neglect when in the custody of the parents. The State has shown clear and convincing evidence to support the termination of S.P.'s and R.F.'s parental rights.

II. DHS has made reasonable efforts to reunite this family and return the children to the custody of their parents. The record, however, shows the children cannot be returned home.

The members of this family have been receiving intensive services since December 1990. DHS immediately identified the problems and goals of the family and established a case plan. S.P. and R.F. have failed to take responsibility and minimize the reasons their children are in foster care. Neither parent has been able to resolve the problems that led to the children's placement in foster care in December 1990 or June 1992.

Several organizations have provided a variety of services to this family. Bethany Home accepted case responsibilities on April 10, 1991. These services terminated in November 1991. Family Reunification services began on November 26, 1991. This organization provided intensive in-home services. These services terminated on March 9, 1992. Finally, Lutheran Social Services began providing in-home services on March 10, 1992. The social workers concentrated on parenting skills and communication. These services terminated on June 9, 1992, at which time the four children were again returned to foster care.

The record reflects the wide range of services offered in an attempt to reunite this family and create a safe home for the children. The following are some of the specific programs offered to the parents. R.F. and S.P. were referred to Family Resource's domestic violence program. In the termination report prepared for the court, however, a Lutheran Social Services social worker stated neither parent had attended the counseling sessions as of December 1992. The social worker stated the parents had made very little progress in the last quarter and were unable to meet their own needs let alone the needs of four young children.

Family Resources offered marriage counseling to the parents. The counselor, however, concluded the parents did not want to address the problems in their relationship.

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Visiting Nurses and Homemakers Association offered in-home parenting courses to S.P. and R.F. for approximately thirteen and four months respectively. S.P. often resisted advice from the homemaker.

Foster care, supervised visitation, and day-care services were also offered to the parents. Neither parent took advantage of the day-care services. Case workers noted the parents have difficulty engaging with more than one child at a time, interacting, structuring activities, setting limits, and providing adequate discipline. The parents rarely initiated asking about the children's welfare, even with the knowledge of chronic medical needs of the three youngest and behavioral issues regarding the two oldest children.

The Center for Alcohol and Drug Services (CADS) also offered services to the parents. S.P. received treatment in the outpatient program in May 1991. CADS recommended S.P. attend two Alcoholic Anonymous meetings per week, but she failed to follow the recommendation. CADS screened R.F. but did not provide services because R.F. failed to complete an evaluation.

In a termination report prepared by Lutheran Social Services, a social worker stated, "Despite years of ongoing services including parenting sessions, family preservation and family-centered services, neither parent appears to understand age appropriate behaviors or how to effectively provide disciplinary techniques."

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The Iowa Supreme Court has stated: "Children simply cannot wait for responsible parenting. Parenting cannot be turned off and on like a spigot. It must be constant, responsible, and reliable." In re L.L., 459 N.W.2d 489, 495 (Iowa 1990). DHS has provided S.P. and R.F. with services and given them time to develop parenting skills. We doubt additional time or services will be of benefit to them. The best interests of H.F., A.F., H.P., and K.F. are promoted by the termination of S.P.'s and R.F.'s parental rights. After a thorough review of the record, we hold termination of S.P.'s and R.F.'s parental rights to H.F., A.F., H.P., and K.F. and H.F., A.F., and K.F., respectively, is supported by clear and convincing evidence. We affirm the juvenile court's termination order.

Costs of this appeal are taxed one-half to S.P. and one-half to R.F.

**AFFIRMED.**

Donielson, P.J., concurs; Sackett, J., specially concurs.

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SACKETT, J. (specially concur)

I concur specially without opinion.