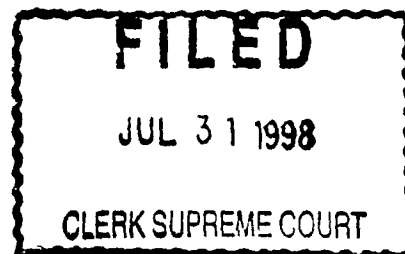


IN THE COURT OF APPEALS OF IOWA

No. 8-386 / 98-457

IN THE INTEREST OF S.B. and M.B., Minor Children,

**R.B., Father,
Appellant.**



Appeal from the Iowa District Court for Clinton County, Arlen J. Van Zee,
District Associate, Judge.

The father of two minor children appeals a district court ruling terminating his
parental rights. **AFFIRMED.**

Edward J. Cross of Van Scoy & Kross, P.C., Clinton, for appellant.

Thomas J. Miller, Attorney General, Diane M. Stahle, Special Assistant
Attorney General, and Ross J. Barlow, County Attorney, for appellee State.

J. David Zimmerman of Pillers, Pillers & Zimmerman, P.C., Clinton, guardian
ad litem for minor children.

Considered by Cady, C.J., and Streit, and Vogel, JJ.

CADY, C.J.

Richard, the father of two minor children appeals a district court ruling terminating his parental rights. He contends the district court erred in terminating his parental rights because of his mental disabilities. We affirm the decision of the juvenile court.

Richard, the father of two minor children, Sheena, born in October 1985, and Matthew, born in February 1988, has a long history of mental problems. He was diagnosed at the University of Iowa psychiatric hospital in 1987 as suffering from delusional disorder, possibly drug induced. Richard was also treated at Mercy Hospital in Davenport in 1993 after his arrest for acute intoxication. In 1994, Richard was hospitalized at the Arizona State Hospital and diagnosed with paranoid schizophrenia.

Sheena and Matthew were removed from Richard's care in October, 1995 following an incident in Clinton, Iowa. Several days after Richard was stopped by Clinton police, he was admitted to Trinity Medical Center after he was observed in a Rock Island, Illinois park exhibiting bizarre behavior. Because he was belligerent and unruly, he was transferred to another hospital for long-term observation. His prognosis was listed as guarded. Richard was discharged from the hospital on November 17, 1995. One week later, he was admitted to Samaritan Health System pursuant to a court-ordered involuntary hospitalization after displaying acute

psychosis. In December 1995, Richard was released to a county care facility. Richard remained at this facility until December 1996.

Sheena and Matthew were adjudicated in need of assistance in December 1995. Following a dispositional hearing in February 1996, the court continued placement of the children in foster care. Richard's treating physician, Dr. Nnanji, reported to the court Richard did not wish reunification with the children. Dr. Nnanji reported Richard's stay at the care facility was troublesome due to his erratic and aggressive behavior. While the Department of Human Services provided Richard visitation with the children, he was not stable enough to participate in individual therapy or parenting classes.

Following his discharge, Richard moved to his mother's home in Milan, Illinois. Richard did not exercise visitation with his children from February to June 1997. DHS concluded Richard was incapable of exercising unsupervised visitation. During visitation, Richard expressed interest in having his children adopted by their foster families.

On October 28, 1997, the State filed a petition to terminate Richard's parental rights. At the hearing, the State presented voluminous evidence of Richard's and Lisa's substance abuse problems and their total failure to involve themselves with DHS services. DHS also provided evidence of the children's health concerns, including attention deficit disorders and learning disabilities. The court concluded that although it was apparent Richard loved his children, he would never be able to

do more for them than visit. The court therefore terminated both Richard's and Lisa's parental rights. Lisa filed a rule 179(b) motion which the district court denied. Richard has appealed. Lisa did not appeal the termination of her parental rights.

We review termination proceedings de novo. Iowa R. App. P. 4; *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). Weight is accorded the findings of the juvenile court, particularly with respect to the credibility of witnesses, but they are not binding. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990). The primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995). Those best interests are to be determined by looking at the child's long-range as well as immediate interests.

Richard contends the district court erred in terminating his parental rights on the basis of his mental disabilities. He argues he has a close relationship with the children and it would not be in their best interest for his parental rights to be terminated. See Iowa Code § 232.116(3)(c). He acknowledges he is not capable of caring for them, but believes he should be allowed personal contact while they are in long-term foster care. The legislature has determined the interval for which patience with parents may last. "This period must be reasonably limited because patience 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). A child should not be forced to suffer the parentless limbo of foster care endlessly. *In re D.J.R.*, 454 N.W.2d 838, 845 (Iowa 1990); *Long v. Long*, 255 N.W.2d 140, 146 (Iowa 1977). To continue long-

term foster care is usually not in the children's best interests. *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997); *In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989). Richard's concerns appear to be that his children retain his last name and that he be allowed further contact with them. We acknowledge terminating his parental rights and placing the children for adoption will remove any legally enforceable right for Richard to visit his children. However, the record does not reveal the kind of close parent-child relationship between Richard and his children contemplated in Iowa Code section 232.116(3)(c) as a basis for refusing to terminate parental rights. We determine Richard has not demonstrated termination would be detrimental to Sheena and Matthew due to the closeness of the parent-child relationship. We find the current case similar to the situation in *In re S.N.*, 500 N.W.2d 32 (Iowa 1993), in which a father suffered mental disability from a head injury. Despite his best efforts, the father would never be able to care for his children. The court determined long-term foster care was not a viable option in the children's best interests. *Id.* at 36. We conclude, given the progress Sheena and Matthew have made in stable foster care, given their probable adoption by the foster parents, and given the current willingness of the foster parents to allow continued contact, termination is in Sheena's and Matthew's best interests. While we may sympathize with Richard's plight, our focus must remain the children's best interests.

AFFIRMED.