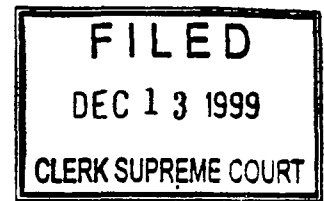


IN THE COURT OF APPEALS OF IOWA

No. 1999-424 (9-677) / 99-0336
Filed December 13, 1999



IN THE INTEREST OF C.W., Jr., and E.W.,
Minor Children,

C.W., Sr., Father,
Appellant.

Appeal from the Iowa District Court for Polk County, Karla J. Fultz, Associate Juvenile Judge.

Father appeals from the juvenile court order terminating his parental rights.

AFFIRMED.

Ronald A. Baybayan, Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee-State.

Nancy Pietz of Cook & Brown, P.L.C., Clive, guardian ad litem for minor children.

Considered by Streit, P.J., Vaitheswaran, J., and Peterson, S.J.*

*Senior Judge assigned by order pursuant to Iowa Code § 602.9206 (1999).

PETERSON, S.J.

A father appeals the juvenile court decision which terminated his parental rights to his two minor children. The father claims the State did not present sufficient evidence to support termination of his parental rights and termination is not in the children's best interests. We affirm on appeal.

Charles Sr. and Ann are the parents of Charles Jr., born in December 1993, and Elizabeth, born in April 1995. The parents were not married, but lived together. Their relationship involved domestic violence. The family came to the attention of the department of human services (DHS) in June 1995, due to a report of filthy conditions in the home. DHS issued a founded report of denial of critical care. A second founded report for denial of critical care was issued in July 1996, for filthy conditions in the home and the presence of drug paraphernalia.

In March 1997, the family was homeless and was living in a shelter for a period of time. The parents separated. Ann left the shelter with the children and began living in a friend's car. She told social workers she intended to take the children out of state. The children were removed from Ann's care on March 5, 1997. An examination of the children showed Charles Jr. had a bruise on his face. Ann stated Charles Sr. had hit Charles Jr. Both children were anemic. DHS issued two founded reports of denial of critical care against Ann and one founded report of physical abuse against Charles Sr.

~~The children were~~ adjudicated to be children in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2), (g), and (n). The juvenile court ordered Charles Sr. to participate in parenting class, domestic abuse class, and individual counseling. He was also ordered to follow the recommendations of a psycho-social evaluation and establish stable housing.

Charles Sr. admitted he had previously used methamphetamine and was sometimes physically abusive to Ann. He had a substance abuse evaluation in March 1997. The evaluation did not indicate a current need for treatment, but did recommend an education program. A drug test showed positive for cocaine in May 1997. All subsequent drug tests have been negative for the presence of illegal substances.

Charles Sr. completed his portion of the psycho-social evaluation. The evaluation found he did not have a close bond with the children and needed to work on developing a relationship with them. He began a domestic abuse class in June 1997, but was discharged from the program for poor attendance. Charles Sr. participated in individual counseling from July 1997 to March 1998. He moved to a one-bedroom apartment in October 1997. He completed a parenting class in January 1998.

Charles Sr. participated in supervised visitation with the children. He received additional parenting skills training during visits. He had a tendency to give in to the children's demands and did not discipline them. He did not demonstrate affection

~~toward the children.~~ In May 1998, Charles Sr. began to have semi-supervised visits with the children. After one visit, Elizabeth had marks on her arm which she stated Charles Sr. had caused. Visits were changed back to supervised.

The children have done well in foster care. Both children are developmentally delayed. Charles Jr. has some hearing loss. He has been diagnosed with an adjustment disorder, which causes him to engage in aggressive behavior. Charles Jr. receives play therapy. The children's current foster parents are interested in adopting them.

In July 1998, the State filed a petition to terminate the parental rights of Charles Sr. and Ann. The court terminated the parents' rights to Charles Jr. under section 232.116(1)(e) and their rights to Elizabeth under section 232.116(1)(g). The court found the children would continue to suffer adjudicatory harm if returned to the care of either parent. Charles Sr. appealed the termination of his parental rights.

I. The scope of review in termination cases is *de novo*. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Charles Sr. contends the State did not present sufficient evidence to support termination of his parental rights. In particular, he asserts the State failed to show the children could not be safely returned to his care. He claims he did all the

~~State asked of him.~~ Charles Sr. admits he needs to show more affection to the children, ~~but~~ asserts he is improving in this area, and this should not be sufficient to justify termination of his parental rights.

A good prediction of the future conduct of parents is to look at the past conduct. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998). The parent's past performance may indicate the quality of care the parent is capable of providing in the future. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

Charles Sr. did not provide adequate care for the children in the past. The children were forced to live in a filthy house. He exposed the children to domestic violence and his use of illegal drugs. It is clear Charles Sr. has made some progress. However, when visits were not constantly supervised, Elizabeth received an injury which she stated was caused by Charles Sr. Social workers noted Charles Sr.'s patience would wear thin at the end of a visit. We determine the children could not be safely returned to the father's care at the present time. There was sufficient evidence to terminate Charles Sr.'s parental rights under sections 232.116(1)(e) and (g).

III. Charles Sr. claims termination is not in the children's best interests. He states he ~~has recently been making significant strides to gain custody of the children.~~ Charles asserts he could become a successful parent.

Even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the children. *In re M.S.*,

519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of children, a court looks to the children's long-range and immediate interests. *C.K.*, 558 N.W.2d at 172. The court must consider the physical, mental, and emotional condition and needs of the child in deciding whether to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

Termination of the parental rights of Charles Sr. is in the children's best interests. On days when they had visits with their father, the children were anxious and regressed in their toilet training. The children are developmentally delayed and need a stable home environment. Charles Sr. is unable to meet the children's needs.

We affirm the decision of the juvenile court which terminated Charles Sr.'s parental rights to Charles Jr. and Elizabeth.

AFFIRMED.