

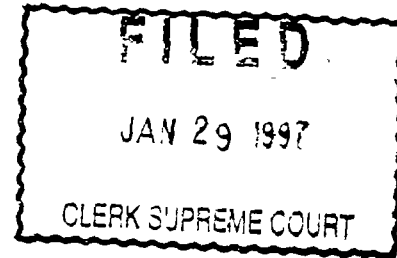
IN THE COURT OF APPEALS OF IOWA

No. 6-704 / 95-1988

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**IN THE INTEREST OF M.C., C.C.,
and M.C., Minor Children,**

**F.C. and C.C., Proposed Intervenors,
Appellants.**



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

Grandparents appeal from the denial of their petition for intervention.

AFFIRMED.

F.C., Des Moines, pro se.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney
General, and Ray Blase, Assistant County Attorney, for appellee State.

Michael Bandstra, Des Moines, for minor children.

Considered by Habhab, C.J., and Cady and Huitink, JJ.

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HABHAB, C.J.

Fay and Claire are the parents of Roger. Roger and his wife Sheilah have three children. Two of the children have been the victims of serious sexual abuse by both Roger and Sheilah. Roger was incarcerated after his plea of guilty to two counts of third-degree sexual abuse, three counts of disseminating obscene material to minors and one count of indecent exposure. Roger and Sheilah's parental rights were terminated in May 1995. The termination was affirmed by the Iowa Court of Appeals on December 22, 1995. Our supreme court denied both Roger and Sheilah's applications for further review on March 1, 1996.

During the pendency of the termination proceedings, Fay and Claire filed a petition for intervention. They requested visitation with the children and that the children be placed with them for eventual adoption. An evidentiary hearing on the petition for intervention was held October 16, 1995. On October 24, 1995, the juvenile court in effect denied the request of the grandparents. The court found the grandparents did not believe the abuse had occurred and contact with the paternal family would likely cause regression in the children's behavior and adjustment. The court further determined that neither visitation nor placement with the paternal family was in the best interests of the children.

On appeal, the grandparents argue the court erred in denying their petition based on their "refusal to accept and embrace DHS's concocted scenario of intra-family child abuse." They request the matter be remanded with instructions they be

granted “full intervention with visitation and full consideration pursuant to adoption.” They also request the costs of the action be assigned to appellee and they be reimbursed for the cost of producing the transcript.

Somewhat like the circumstances in *In re J.R.*, 315 N.W.2d 750, 752 (Iowa 1982), the juvenile court ostensibly denied the petition for intervention. However, like in *J.R.*, the ruling of the juvenile court here was made only after all of the parties, including the grandparents, had made a full record on the issues presented by the petition in intervention.

Our review of the record is de novo. *Id.* We give weight to the fact findings of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those findings. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981).

From our de novo review of the record, we agree with the juvenile court.¹ The fact that Roger’s parental rights have been terminated substantially diminishes the role of the grandparent-grandchild relationship. *See In re B.B.M.*, 514 N.W.2d 425, 429 (Iowa 1994). However, termination alone does not disqualify the grandparents as adoptive parents. *Id.*

¹ We note that as the paternal grandparents’ petition for intervention does not seek to contest the termination of Roger’s parental rights, but rather seeks to be heard on the issues of visitation and custody, the petition is timely. *See* Iowa Code § 600A.9(2) (1995) (“[T]he juvenile court shall retain jurisdiction to change a guardian or custodian. . . .”); *and see In re B.B.M.*, 514 N.W.2d 425, 427 (Iowa 1994) (as issue of custody not finalized in termination proceeding, petition for intervention timely).

The children have not seen the grandparents for two years and, given their youthful ages, they likely have little or no memory of them. The paternal grandparents continue to refuse to believe the children have been abused. The children's therapist testified contact with the paternal family would likely cause regression in the children's behavior and adjustment. We affirm the juvenile court's finding that visitation and placement with the paternal grandparents would not be in the children's best interest. We deny the paternal grandparents' request for costs.

AFFIRMED.