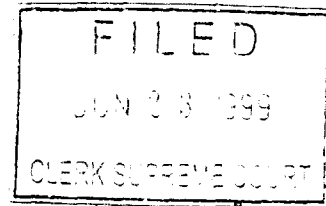


IN THE COURT OF APPEALS OF IOWA

No. 1999-158 (9-375) / 98-1450

Filed June 23, 1999



IN THE INTEREST OF D.W.F., Minor Child,

S.F., Mother,
Appellant.

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,
District Associate Judge.

The mother of a minor child appeals a district court order terminating her
parental rights. **AFFIRMED.**

Paul D. Miller of Miller Law Office, Iowa City, for appellant.

Thomas J. Miller, Attorney General, Debora Hewitt Neumeyer, Assistant
Attorney General, and Deborah Farmer Minot, Assistant County Attorney, for
appellee State.

Lars G. Anderson of Holland Law Office, Iowa City, guardian ad litem for
minor child.

Patrick E. Ingram of the Mears Law Office, Iowa City, for father R.P.

Considered by Sackett, C.J., and Vogel and Zimmer, JJ.

PER CURIAM.

Susanne, the mother of Dillon, appeals the district court order terminating her parental rights. She claims even if the requirements for termination had been met, it was not in Dillon's best interest. We affirm. The court also terminated the father's parental rights, but they are not at issue in this appeal.

Richard and Susanne are the parents of Dillon, born in April 1996. Richard has had no association with Dillon since his birth. While Susanne and Dillon were still in the hospital after Dillon's birth, the Department of Human Services questioned Susanne's parenting ability because of her substance abuse, poor prenatal care, and homelessness. By April 1997, several allegations of denial of critical care were founded against Susanne based on Dillon's failure to thrive, Susanne's provision of spoiled and moldy formula for him, and an incident where long, blond hair was found wrapped so tightly around several of Dillon's toes that doctors feared he would lose a toe. Doctors determined Dillon is a special needs child with serious health problems, including hearing loss, gastroesophageal reflux, brachycephaly,¹ and developmental delay. Following a hearing in late April 1997, the court removed Dillon from Susanne's custody and placed him in foster care. About a month after Dillon's removal, Susanne stopped visitation and disappeared. She reappeared in

¹ A congenital anomaly of the central nervous system characterized by premature closing of one or more cranial sutures due to abnormalities of skull development. Brachycephaly is characterized by a wide, short skull with poorly formed orbital ridges and frontal bone.

mid-July when she was arrested on felony charges. The court adjudicated Dillon to be in need of assistance in September 1997 and continued his foster placement.

Despite consistent efforts by the department over the next year to assist Susanne in obtaining proper parenting skills and medical attention for both herself and Dillon, Susanne failed in her attempts at compliance with her case permanency plan. She did not keep appointments or appear for visitation. She lied to service providers and her probation officer about her employment. She was unable to provide safe housing on a consistent basis, even with financial help from the State and from her family. Susanne did not come to visitation prepared with diapers, food, or toys. A psychological evaluation revealed Susanne suffered from dysthymia,² depression, and borderline personality and intellectual functioning. She has problems with alcohol abuse, but has not successfully completed substance abuse treatment. At a dispositional hearing in December 1997, the court advised Susanne she needed to make immediate and substantial progress in complying with the case permanency plan and in being reunited with Dillon or the State would seek to have her parental rights terminated.

² It is now generally accepted that dysthymia belongs to the classification of mood/affective disorders, rather than representing a depressive temperament. The term literally means "ill-humored." According to *DSM-IV* (1994) criteria, the core features of the disorder include at least two years of depressed mood for more days than not, with at least two of the following: poor appetite or overeating; insomnia or oversleeping; fatigue or low energy; low self-esteem, poor concentration or problems in decision making; and hopelessness. Dysthymic individuals tend to be self-deprecating, brooding about the past, and socially withdrawn; they may feel irritable and unproductive.

The State filed a petition to terminate Susanne's parental rights in April 1998. At the time of the termination hearing in July 1998, Susanne was living in a shelter for abuse victims. She planned to marry a man who, in a fight, cut out one of her former husband's eyes with a broken beer bottle. The department reported Susanne missed so many appointments with Vocational Rehabilitation, they closed her file. She had not made much progress in completing the requirements of the case permanency plan. She was not regularly involved in mental health treatment. Susanne admitted she had serious problems with alcohol, anger, and lying. She admitted she could not parent Dillon at that time. She testified she loves Dillon.

The juvenile court concluded Dillon could not safely be returned to either parent. Despite the services provided to Susanne, the court concluded she was unable to manage her own psychological and substance abuse problems or provide adequate care for Dillon. The juvenile court terminated Susanne's and Richard's parental rights. Despite little evidence as to Dillon's chances for the future, the court found Dillon to be adoptable. The foster parents do not plan to adopt Dillon.

On appeal, Susanne concedes the requirements of Iowa Code section 232.116(1)(g) were proved, but claims termination is not mandatory and is not appropriate in this case. Without citing section 232.116(3), Susanne argues termination is inappropriate in this case because she loves her son; has developed a nurturing, loving bond with him; and he shows an excited, emotional reaction to her during visitation. She asserts it would be in Dillon's best interest if this bond

continued. She contends she can progress toward being a better parent, although her progress may be slower and she may need more supportive assistance because of her mental health problems.

Dillon has special medical and psychological needs. He has been out of Susanne's care for much of his life. While Dillon needs and deserves stability and permanency, there is no evidence it will come after termination. Dillon's foster parents are not interested in adopting him. His special needs provide a challenge for any adoptive parents.

The grounds for termination having been proven by clear and convincing evidence, we affirm.

AFFIRMED.

No. 98-1450. [1999-158 (9-375)] IN RE D.W.F.

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis, District Associate Judge. **AFFIRMED.** Considered by Sackett, C.J., and Vogel and Zimmer, JJ. Per curiam. (5 pages \$2.00)

Richard and Susanne are the parents of Dillon, born in April 1996. While Susanne and Dillon were still in the hospital after Dillon's birth, the Department of Human Services questioned Susanne's parenting ability because of her substance abuse, poor prenatal care, and homelessness. By April 1997, several allegations of denial of critical care were founded against Susanne based on Dillon's failure to thrive, Susanne's provision of spoiled and moldy formula for him, and an incident where long, blond hair was found wrapped so tightly around several of Dillon's toes that doctors feared he would lose a toe. Doctors determined Dillon is a special needs child with serious health problems, including hearing loss, gastroesophageal reflux, brachycephaly, and developmental delay. In late April 1997, the court removed Dillon from Susanne's custody and placed him in foster care. Despite consistent efforts by the department over the next year to assist Susanne in obtaining proper parenting skills and medical attention for both herself and Dillon, Susanne failed in her attempts at compliance with her case permanency plan. She did not keep appointments or appear for visitation. She lied to service providers and her probation officer about her employment. She has problems with alcohol abuse, but has not successfully completed substance abuse treatment. At the time of the termination hearing in July 1998, Susanne was living in a shelter for abuse victims. She planned to marry a man who, in a fight, cut out one of her former husband's eyes with a broken beer bottle. She was not regularly involved in mental health treatment. She admitted she could not parent Dillon at that time. The juvenile court terminated Susanne's and Richard's parental rights. On appeal, Susanne concedes the requirements of Iowa Code section 232.116(1)(g) were proved, but claims termination is not mandatory and is not appropriate in this case. Dillon has special medical and psychological needs. He has been out of Susanne's care for much of his life. The grounds for termination having been proven by clear and convincing evidence, we affirm.