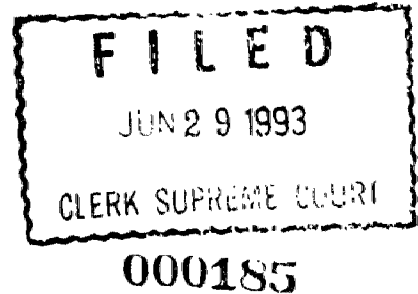


IN THE COURT OF APPEALS OF IOWA

No.3-286 / 93-116

IN THE INTEREST OF J.R., A Minor Child,
D.R., Mother,
Appellant.



Appeal from the Iowa District Court for Johnson County,
Michael Newmeister, Judge.

The mother appeals a juvenile court order terminating
her parental rights pursuant to Iowa Code section
232.116(1)(e). **AFFIRMED.**

Mary K. Hoefer of Mears Law Office, Iowa City, for
appellant.

Bonnie J. Campbell, Attorney General, John M. Parmeter,
Special Attorney General, Judy Sheirbon, Assistant Attorney
General, J. Patrick White, County Attorney, and Deborah
Farmer Minot, Assistant County Attorney, for appellee
State.

Michael W. Kennedy, Iowa City, guardian ad litem.

Considered by Oxberger, C.J., and Schlegel and Hayden,
JJ.

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OXBERGER, C.J.

I. Background Facts and Proceedings

The facts of this tragic case are as follows: J.R. was born November 26, 1987. D.R., the child's mother, resided with J.R. in a residential treatment program until she turned eighteen years old in August 1988. The father of the child is not known.

D.R. placed J.R. with her sister in another state. In November 1988, D.R. voluntarily placed J.R. in foster care, expressing concern she would hurt him. From December 1988 through August 1989, D.R.'s whereabouts were unknown.

In September 1989, D.R. reappeared. Visitation was initiated, but was reported to have adverse effects on J.R. In April 1990, the same month D.R. gave birth to another child, the Foster Care Review Board recommended the State pursue termination of D.R.'s parental rights with J.R. Subsequently, the juvenile court granted termination of D.R.'s parental rights.

On appeal, the Iowa Court of Appeals reversed the termination. In re J.R., No. 91-47/1-285 (Iowa App. Sept. 24, 1991). The court concluded, inter alia, the evidence was insufficient to prove D.R. could not meet J.R.'s needs in the future. Further review of this case was denied by the Iowa Supreme Court and procedendo issued on December 31, 1991.

An extensive reunification plan was developed. All parties were in agreement and optimistic. However, as

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discussed in further detail later in this opinion, the reunification plan was not successful. J.R. refused to participate, often crying and kicking during the visits. Eventually, the reunification plan was abandoned and termination proceedings initiated. The juvenile court granted termination of D.R.'s parental rights to J.R. pursuant to Iowa Code section 232.116(1)(e).

D.R. appeals.

Appellate 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). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. Id. at 491-92.

II. Discussion

The primary concern in termination proceedings is the best interest of the child. Iowa R. App. P. 14(f)(15); In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

We look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. Insight for this determination can be gained from evidence of the parent's past performance, for that performance may be indicative of the quality of the future care the parent is capable of providing. Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

In re R.M., 431 N.W.2d 196, 199 (Iowa App. 1988) (citing Dameron, 306 N.W.2d at 745).

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Iowa Code section 232.116(1)(e) (1991) permits the juvenile court to terminate the parent-child relationship if the court finds all of the following have occurred:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

D.R.; her attorney; Dr. Hartson, a pediatric psychologist; Dr. Anne Jensen, a pediatric psychologist specializing in young children and play therapy; and Connie Sarchet, a DHS supervisor with twenty-three years of social work experience, participated in planning D.R. and J.R.'s reunification. A plan of systematic desensitization was chosen, allowing J.R. gradual exposure to his mother in supervised, then unsupervised visitation. In addition, Dr. Jensen was scheduled to provide skill development to D.R. and play therapy to J.R. A family therapist, Mary Kay Townsend, was selected to supervise visits, provide counseling for D.R., and provide J.R.'s transportation for the visits. All parties agreed to the plan and were optimistic that the plan would work.

In January 1992, the reunification plan progressed successfully. By early February, however, Dr. Jensen began observing that J.R.'s play suggested anger and confusion.

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She also noted a lack of harmony between J.R. and D.R. in the sessions and attempted to work with D.R. on this issue.

In March 1992, J.R. completed his first full day, unsupervised visit. After the visit, Dr. Jensen and Townsend began noticing an increase in J.R.'s distress level and lack of nurturing and affection between D.R. and J.R. J.R. fought, kicking and screaming, while being transported to his visits. D.R. reported to Dr. Jensen that on March 13 J.R. cried for half an hour when he arrived to visit. J.R.'s physical outbursts relating to his visits with D.R. escalated over the next few months. In late March, a parent-child attachment inventory was conducted by Dr. Hartson and Dr. Jensen. It revealed D.R.'s and J.R.'s level of secure attachment was 3.4 standard deviations below the mean. This indicated 99% of all parent-child relationships were more secure than the relationship between J.R. and D.R. Dr. Hartson and Dr. Jensen conducted an exhaustive review of the literature on attachment in an effort to determine why the reunification between J.R. and D.R. was not proceeding as scheduled. They concluded the reunification was proceeding too quickly for J.R.'s emotional well-being. They met with D.R., her attorney, and the care providers.

However, D.R. wished to continue the timetable for reunification, and DHS continued to be supportive of D.R. For the next six weeks, J.R. continued to display angry, resistive responses to visiting his mother. For several

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days, his physical outbursts were so violent he was unable to be safely transported to his visits. In May 6, 1992, DHS sought termination of D.R.'s parental rights. However, upon application of D.R., the Judge entered an ex parte order to return J.R. to D.R.'s custody on May 11, 1992.

Although the transfer was effectuated, a stay was granted by the supreme court on May 13, 1992. Because the transfer had been completed and an expedited termination hearing was scheduled, the decision was made to allow D.R. to retain physical care temporarily.

During the five weeks or so J.R. resided with his mother, several care providers visited with him regularly and he continued his appointments with Dr. Jensen. She later testified she was shocked by the change in his appearance and his withdrawn, "sad" affect. In addition, on one occasion a worker came to visit. J.R. answered the door and explained his mother was sleeping. He was unable to awaken her and had gotten himself a hot dog to eat and was watching cartoons. On another occasion, a worker received a phone call from D.R.'s mother at 1:30 a.m. indicating D.R. was two hours late picking J.R. up.

Dr. Jensen observed several transfers following J.R.'s visitation with his foster family. She testified she determined J.R. was suffering from significant emotional trauma as a result of reunification. She also evaluated for the possibility that the foster parents were attempting to sabotage reunification or in some way influencing J.R.'s

conduct. She concluded they were supportive of reunification.

Dr. Jensen began visiting J.R. more frequently. She observed J.R. becoming increasingly more disorganized, dangerously impulsive with inappropriate aggression, and no self-control. D.R. frequently sent J.R. to his room when he would scream and throw things. Dr. Jensen noted themes of blood and violence in J.R. She testified J.R. would now be diagnosed with an adjustment disorder with mixed emotional features or posttraumatic stress disorder. In addition, J.R.'s day care reported similar aggressive behavior.

Based on this evidence, we conclude the juvenile court was correct in terminating D.R.'s parental rights pursuant to Iowa Code section 232.116(1)(e). While we note, as did the juvenile court, D.R.'s desire to gain custody of J.R. and her current positive parenting, we cannot ignore the initial cause of J.R.'s difficulty: D.R.'s abandonment of him for nearly a year at a critical time in his development. Thus, we find the harm referred to in the Code to be squarely precipitated by D.R.'s early conduct. We further find no evidence of sabotage or lack of support for reunification on the part of any care providers or the foster parents. We affirm the juvenile court, both in its reasoning and its rulings.

AFFIRMED.