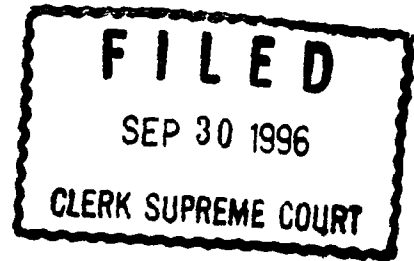


IN THE COURT OF APPEALS OF IOWA

No. 6-558 / 96-814

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



Appeal from the Iowa District Court for Mills County, Mark J. Eveloff,
District Associate Judge.

Mother appeals juvenile court's refusal to grant a revocation of her release of
custody and its termination of her parental rights. **AFFIRMED.**

Richard C. Swenson of Swenson & Whitacre, P.C., Glenwood, for appellant.

James C. Webering, Glenwood, for appellee, B.E.P.

Michael D'Angelo, Oakland, for minor child.

Decided en banc.

PER CURIAM

Rebecca is the mother of Wesley, who was born in March 1995. Rebecca was nineteen years old at the time Wesley was born. She had problems caring for Wesley, particularly in the areas of providing adequate hygiene and in giving medication. At the direction of the Department of Human Services, the Mills County Public Health Department (MCPHD) described available services to her. Rebecca was resistant to accepting services.

While Rebecca was working in Pacific Junction, she met Darrell and Terri Porter. Rebecca was aware the Porters could not have children, and in September 1995 she asked them several times if they would be willing to adopt Wesley. She also told another co-worker she was thinking of giving custody of Wesley to the Porters. In early October 1995, Rebecca lost her job, was evicted from her apartment, and thought she had lost Wesley's Title XIX medical coverage.

On October 6, 1995, Rebecca went to the Porters' house and asked if they would take Wesley. When the Porters received Wesley, his clothes and car seat were soaked in urine and vomit, and he had a temperature of 102 degrees. On October 9, 1995, Rebecca went to the Porters to drop off Wesley's things. She did not attempt to see Wesley then or at any future time. On the same date, Rebecca told Barb Kaiman of MCPHD she was not ready to be a mother.

On October 13, 1995, Rebecca met the Porters at an attorney's office. A release of custody was reviewed and Rebecca agreed to sign it. The attorney told her

she had a right to counseling and recommended she take it. Rebecca refused counseling. She was asked to return later to sign the papers. Rebecca returned with a friend. The release of custody was read to her. Rebecca signed the release of custody and offer of counseling. She cried as she left the attorney's office.

MCPHD contacted Rebecca on October 18, 1995. She told them she regretted her decision to relinquish her parental rights. Rebecca obtained the services of an attorney and began proceedings to revoke her release of custody. She claimed the release was obtained by fraud, coercion, and misrepresentation. After a hearing, the juvenile court determined Rebecca had not shown good cause to revoke the release of custody. The court concluded Rebecca's parental rights should be terminated under Iowa Code section 600A.8(1). Rebecca now appeals.

I. Our review of the juvenile court's decision is de novo. *In re C.K.*, 315 N.W.2d 37, 40 (Iowa 1982). We give weight to the findings of the trial court, but are not bound by them. *In re Adoption of Gibson*, 239 N.W.2d 540, 542 (Iowa 1976).

II. Chapter 600A provides for termination of parental rights where the parents have given their express consent or have by their conduct indicated no desire to continue the parent-child relationship. *In re B.M.M.*, 514 N.W.2d 425, 427 (Iowa 1994). Rebecca claims chapter 600A is unconstitutional. She believes she was denied her right to due process because there is no requirement in chapter 600A that a parent be represented by counsel at all stages in the termination of parental rights. She points out that the interest of parents in their relationship with their children is

a fundamental liberty interest protected by the Fourteenth Amendment. *See In re B.G.C.*, 496 N.W.2d 239, 244 (Iowa 1992).

This issue has previously been addressed by the supreme court in the case of *In re J.L.L.*, 414 N.W.2d 133 (Iowa 1987). The court distinguished between the voluntary termination of parental rights in chapter 600A and the involuntary termination of parental rights in chapter 232. *Id.* at 135. The court determined it was reasonable for the legislature to conclude that voluntary terminations, which are by nature uncontested, do not require counsel as do adversarial proceedings. *Id.* Chapter 600A provides all of the due process required under the Fourteenth Amendment. *B.G.C.*, 496 N.W.2d at 244.

We note that after Rebecca decided to contest the release of custody, she received the assistance of court-appointed counsel. We conclude Rebecca was not denied her right to due process because of her lack of representation by counsel at the time she signed the release of custody.

III. Rebecca claims the juvenile court should have found she presented sufficient good cause to revoke the release of custody. Section 600A.4(4) provides:

Either a parent who has signed a release of custody, or a nonsigning parent, may, at any time prior to the entry of an order terminating parental rights, request the juvenile court designated in section 600A.5 to order the revocation of any release of custody previously executed by either parent. If such request is by a signing parent, and is within ninety-six hours of the time such parent signed a release of custody, the juvenile court shall order the release revoked. Otherwise, the juvenile court shall order the release or releases revoked only upon clear and convincing evidence that good cause exists for

revocation. Good cause for revocation includes but is not limited to a showing that the release was obtained by fraud, coercion, or misrepresentation of law or fact which was material to its execution. In determine whether good cause exists for revocation, the juvenile court shall give paramount consideration to the best interests of the child including avoidance of a disruption of an existing relationship between a parent and child. The juvenile court shall also give due consideration to the interests of the parents of the child and of any person standing in the place of the parents.

Under section 600A.4(4), if a parent requests revocation within ninety-six hours, the release must be revoked. Rebecca admits she did not seek revocation within ninety-six hours. Thus, she must show by clear and convincing evidence that good cause exists for revocation. *C.K.*, 315 N.W.2d at 43. On appeal, she admits the evidence might not show fraud, coercion, or misrepresentation. She states, however, she sufficiently showed good cause by showing she was a young unwed mother under stress and in a highly coercive and unfriendly atmosphere when she signed the release of custody.

We agree with the juvenile court that Rebecca has failed to show by clear and convincing evidence good cause to revoke the release of custody. The evidence shows Rebecca had considered the matter for about a month before she voluntarily went to the Porters' house and gave them care of Wesley. She also voluntarily went to the attorney's office to discuss the release of custody, and voluntarily returned with a friend to sign the necessary documents. The evidence also shows Rebecca was fully apprised of her right to counseling prior to signing the release of custody. We do not find evidence of a coercive or unfriendly atmosphere.

Furthermore, section 600A.4(4), provides that except in cases of alleged fraud, coercion, or misrepresentation, we must give paramount consideration to the best interests of the child and due consideration to the interests of the parents of the child in determining whether there is good cause for the revocation of a release. *Id.* at 44. We find revocation of the release of custody would not be in Wesley's best interests. There was evidence from several witnesses that Rebecca rarely changed Wesley's diapers, that she would not give him prescribed medication, and that she would feed him curdled formula. In reaching our conclusion that Rebecca failed to show good cause to revoke the release of custody, we also give due consideration to her interest as a parent.

IV. Rebecca contends the Porters did not comply with four requirements of section 600A.4(2):

1. The acceptance of the release of custody was not by an agency or person making an independent placement as required by section 600A.4(2)(a);
2. The release of custody for all practical purposes was accepted by the persons who intended to adopt the child in interest in violation of the requirement of section 600A.4(2)(b);
3. The release of custody was not accompanied by a complete family medical and social history of the child in interest as required by section 600A.4(2)(f); and
4. The release of custody was not witnessed by two persons familiar with the parent-child relationship as required by section 600A.4(2)(h).

She believes that due to the Porters' failure to follow these statutory requirements, the release of custody should be revoked.

The release of custody was accepted by the wife of Darrell's brother, Beth Porter. Beth has custody of Wesley while the Porters are waiting to adopt him, and Wesley lives at her house. The release of custody was witnessed by two of Darrell's sisters, who were required only to attest there was a parent-child relationship between Rebecca and Wesley. We do not find there has been any violation of the requirements of section 600A.4(2)(a), (b), or (h).

The Porters admit no medical or social history was prepared, as required by section 600A.4(2)(f). We do not find this failure necessitates revocation of the release of custody because there is no showing the failure to prepare the report had any effect in bringing about the release of custody. *See C.K.*, 315 N.W.2d at 43.

After considering all arguments raised in this appeal, we affirm the decision of the juvenile court refusing to revoke the release of custody.

AFFIRMED.