

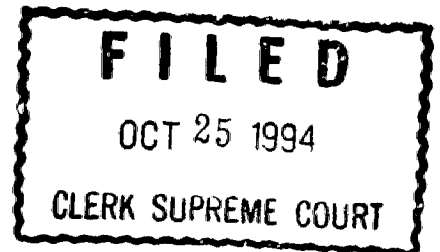
IN THE COURT OF APPEALS OF IOWA

No. 4-328 / 94-257

IN THE INTEREST OF D.A.C., Minor Child,

J.A.C., Father,
Appellant,

I.R.-C., Mother,
Appellant.



Appeal from the Iowa District Court for Linn County,
Michael J. Newmeister, District Associate Judge.

The mother and father appeal the termination of their
parental rights. **AFFIRMED.**

R. L. Sole of Glasson, Grove, Sole & McManus, P.C.,
Cedar Rapids, for appellant-father.

Crystal L. Usher of Wilson, Matias, Usher & Leff,
Cedar Rapids, for appellant-mother.

Bonnie J. Campbell, Attorney General, Gordon E. Allen,
Deputy Attorney General, Judy Sheirbon, Assistant Attorney
General, and Karla Henderson, Assistant County Attorney,
for appellee-State.

Charles H. Nadler of Nadler & Weston, Cedar Rapids,
guardian ad litem, for the child.

Heard by Donielson, C.J., Cady, J., and Schlegel, S.J.*

*Senior judge from the Iowa Court of Appeals serving
by order of the Iowa Supreme Court.

SCHLEGEL, S.J.

Jeff and Irene appeal the termination of their parental rights to D.A.C., born in February 1992. Both contend the State failed to show by clear and convincing evidence that D.A.C. could not be returned to them. In addition, Irene contends the State failed to show by clear and convincing evidence that it is in the best interests of D.A.C. to terminate her parental rights if Jeff's parental rights are not terminated. We affirm.

Jeff and Irene were married at the time of D.A.C.'s birth. The nurses at the hospital reported Irene lacked a basic knowledge of infant care and determined it necessary to remain in the room any time D.A.C. was present.

The juvenile court placed temporary custody of D.A.C. with the department of human services. The court based its decision upon the hospital staff reports as well as Irene's inability to care for a previous child who had been removed from her care in October 1989 at the age of four weeks. On February 21, 1992, D.A.C. was discharged from the hospital and placed in a foster home.

On March 6, the juvenile court returned custody of D.A.C. to Jeff and Irene under the supervision of the department. However, within the first week service providers found Irene lacked motivation to care for D.A.C. and Jeff was overwhelmed at assuming full responsibility for his care. On March 12, Jeff called the department stating Irene had thrown him and D.A.C. out of the house

without adequate clothing. Irene also called the department and complained of violent outbursts by Jeff. The department immediately intervened and took temporary custody of D.A.C who has remained in the department's custody since that time.

Services provided by the department included couple counseling. However, after two sessions Jeff and Irene did not return. They separated in September 1992 and their marriage was dissolved in February 1993.

In February 1993, the State petitioned to terminate parental rights. After trial, the court found Irene had been diagnosed with organic personality disorder and depression. She required hospitalization in September 1992 due to her psychiatric condition and had been readmitted to mental health inpatient care programs since then. The court found Irene incapable of providing necessary care for D.A.C. and there were no reasonable prospects additional services would enhance her ability to care for D.A.C.

As for Jeff, the court found he had maintained full-time employment and fulfilled some aspects of the case permanency plan, but also noted his extensive criminal history. Jeff resisted change and made little progress in two areas deemed critical by the department, his substance abuse and anger management. The court concluded Jeff's patterns of behavior placed D.A.C. at risk and despite eighteen months of services and proceedings he was unwilling to change even if it meant losing D.A.C.

The court terminated Irene's rights pursuant to Iowa Code sections 232.116(1)(f), (g), and (j) and terminated Jeff's rights pursuant to Iowa Code section 232.116(1)(g).

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.

Our primary concern in termination proceedings is the best interests of the child. Iowa R. App. P. 14(f)(5); In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981). In deciding what is best for the child we look to the child's long-range as well as immediate interests. We also look to the past performance of the parents because it is an indication of the quality of care the parent is capable of providing in the future. In re A.M.S., 419 N.W.2d 723, 726 (Iowa 1988).

Despite numerous services provided separately to Jeff and Irene, each has failed to improve in areas deemed critical for returning D.A.C. to their custody. Irene has remained in residential programs due to her psychiatric problems. The record indicates she is unable to provide for D.A.C.'s basic needs now and she is unlikely to acquire the essential parenting skills to properly parent him in the future.

The record shows Jeff maintains the attitude that his substance abuse is not harmful and he refuses to take any responsibility for his behavior. In addition, Jeff continues to threaten and lash out at service providers and others. Jeff's unwillingness to change indicates D.A.C. cannot be returned, safely, to his care.

The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. In re A.C., 415 N.W.2d 609, 613 (Iowa 1987). At the time of the termination hearing, D.A.C. had been in foster care over eighteen months. The legislature has determined the interval for which patience with parents may last. See Iowa Code § 232.116(1)(g).

Our de novo review reveals there is clear and convincing evidence showing D.A.C. cannot be returned to the care of either parent. The statutory grounds for termination have been met. The best interests of D.A.C. require Jeff's and Irene's parental rights be terminated. The decision of the juvenile court is affirmed.

AFFIRMED.