

IN THE COURT OF APPEALS OF IOWA

No. 7-389 / 96-2062

000243

IN THE INTEREST OF J.R., L.R., and S.S., Minor Children,

C.R., Father of J.R. and L.R.,
Appellant,

L.R., Mother,
Appellant.

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

The father and mother of minor children appeal the district court's order
terminating their parental rights. **AFFIRMED.**

William G. Brewer of Cook, Gotsdiner, McEnroe & McCarthy, Des Moines,
for appellant father.

Scott A. Sobel of Sobel Law Firm, Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General,
and Jaki Livingston, Assistant County Attorney, for appellee State.

Kathy Miller, Des Moines, guardian ad litem for minor children.

Considered by Sackett, P.J., and Huitink and Vogel, JJ.

HUITINK, J.

Laura and Christopher have been together since 1988 and were married in 1991. They are the parents of Joseph, born in June 1990, and Lisa, born in April 1991. Laura also has two children, Steven, born in June 1983, and Stephanie, born in July 1985, from a previous marriage. This case involves only Stephanie, Joseph, and Lisa.

The family has a lengthy history of involvement with the Department of Human Services (DHS). The family first received services from 1988 to 1990. The parents have struggled with issues of substance abuse, mental illness, and domestic abuse. The parents also have criminal records. There were five founded reports of physical abuse or denial of critical care of Steven and Stephanie by Christopher and Laura between 1988 and 1992.

On March 3, 1993, Laura called 911 and asked to have the children removed because she was unable to care for them. Laura and Christopher admitted they had been using illegal drugs. The State obtained an emergency removal order and the children were placed in foster care on that date. On April 30, 1993, the children were adjudicated to be children in need of assistance.

DHS required the parents to follow their criminal probation contracts. They were also to complete psychiatric, parenting, and substance abuse evaluations, and follow all recommendations. The parents had supervised visitation of one hour per week with the children.

In June 1993, Laura entered a psychiatric hospital, where she was diagnosed as having a bi-polar manic depressive disorder. After she was discharged she entered an in-patient drug treatment facility, but left that program against medical advice. Christopher also attended substance abuse treatment in July 1993. Laura entered a different substance abuse treatment center in September 1993.

In November 1993, Stephanie alleged she had been sexually abused by Christopher. This was later determined to be a founded report of sexual abuse by Christopher. The children had been misbehaving after visits by having lengthy tantrums and nightmares. The children's therapist recommended that visitation cease because it was too emotionally disturbing for the children. The parents did not have any visitation after November 23, 1993.

In December 1993, Laura was hospitalized with symptoms of agitation and delusional ideation brought about by drug use. In June 1994, the parents were charged with violating their probation by going into houses and stripping pipes of copper tubing. They each serviced time in jail for violating probation.

In January 1995, Laura and Christopher were divorced. In April 1995, Laura was again hospitalized for psychiatric problems. In May 1995, there was a report that Christopher was again using illegal drugs and was suicidal.

On July 24, 1995, the State filed a petition to terminate Laura and Christopher's parental rights to Joseph and Lisa, and Laura's parental rights to Stephanie. At the termination hearing in March 1996, Laura admitted the children

could not be returned to her care at that time. She testified she planned to spend a year at a half-way house attending dual-diagnoses therapy to help her with mental health and substance abuse issues. Christopher asked to have the children placed in his care. He admitted he was still having problems with substance abuse. The juvenile court terminated Laura and Christopher's parental rights under Iowa Code section 232.116(1)(e). Laura and Christopher have appealed.

I. Scope of review.

The scope of review in termination cases is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). The grounds for termination must be proven by clear and convincing evidence. *In re R.R.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995). Our primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Laura.

A. Laura contends termination was not in the best interests of the children.

In our de novo review, we find termination was in the children's best interests. It had previously been determined that it was not in the children's best interests to even visit for one hour per week with Laura because the visits were too emotionally disturbing. After the visits the children had temper tantrums and nightmares. They also had episodes where they wet their pants and had sexual acting out. The children had done very well in foster care. The present foster parents had expressed an interest in adopting the children.

B. Laura claims that the State failed to engage in reasonable efforts to reunite her with the children. She believes the State arbitrarily denied her the right to visit with the children, and this made reunification substantially more difficult. In January 1995, Laura's therapist recommended that she was in a position to resume visits. DHS did not set up the visits, and Laura asserts this failure caused a relapse in her mental condition. She asks to have visitation and begin reunification with the children.

At the termination hearing, Laura's therapist testified that shortly after he recommended Laura could resume visitation, her mental condition became worse, and he changed his recommendation. He stated Laura stopped taking her medication for her bi-polar disorder, and that she struggled with accepting that she needed medication for a mental illness. We find no evidence to show DHS arbitrarily denied visitation to Laura, or that the agency's action caused a relapse in Laura's mental condition. We conclude the State engaged in reasonable efforts to reunite Laura with her children.

III. Christopher.

Christopher contends the State failed to show by clear and convincing evidence the elements of section 232.116(1)(e). In particular, he claims the State failed to show the children could not be returned to his care. He states he cooperated with DHS, attended a parenting class, attended substance abuse treatment, and met with his

individual therapist. He believes he did all DHS required of him, and the children should be placed in his care.

We find Christopher was still struggling with the issues of substance abuse. He admitted he had used alcohol recently. He had been working at his present employment for only two weeks before the termination hearing. Christopher admitted he would need to move before the children could live with him. We also note he had not addressed the issue of the sexual abuse of Stephanie. Christopher's therapist did not recommend that the children be placed in his care. We find Christopher was not ready to assume his parental responsibilities for the children.

We affirm the decision of the juvenile court terminating Laura's parental rights to Stephanie, Joseph, and Lisa, and terminating Christopher's parental rights to Joseph and Lisa.

AFFIRMED.