

IN THE COURT OF APPEALS OF IOWA

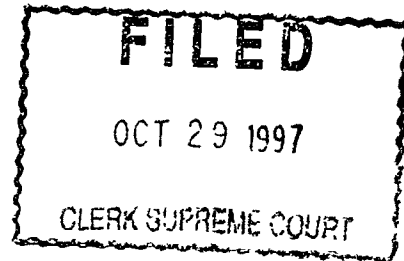
No. 7-384 / 96-2209

000097

IN THE INTEREST OF J.C., Minor Child,

E.C., Mother,
Appellant,

J.C., Father,
Appellant.



Appeal from the Iowa District Court for Scott County, John G. Mullen, District
Associate Judge.

The mother and father of a minor child appeal a district court order
permanently placing their minor child in a guardianship with the maternal
grandmother. **AFFIRMED.**

Lauren M. Phelps of Phelps & Phelps, Davenport, for appellant mother.

Jack E. Dustheimer, Davenport, for appellant father.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney
General, and Gerda Lane, Assistant County Attorney, for appellee State.

Stephen P. Wing of Dwyer & Wing, Davenport, guardian ad litem for minor
child.

Cynthia J. Taylor, Davenport, for intervenor grandmother.

Heard by Cady, C.J., and Huitink and Vogel, JJ.

VOGEL, J.

The mother and father of a minor child appeal a district court order permanently placing their minor child in a guardianship with the maternal grandmother. We affirm.

Background facts. Jessica was born on July 24, 1994, to James and Elizabeth and was adjudicated a child in need of assistance (CINA) on August 11, 1995, pursuant to Iowa Code section 232.2(6)(c)(2), (g), and (n) (1995). DHS had been working with the family since November 1994. On June 16, 1995, Jessica was removed from her parent's home by the Department of Human Services (DHS) and has remained out of their home since that date. On July 11, 1995, Elizabeth's adoptive mother, Lorraine M., filed a petition to intervene. On October 9, 1995, a dispositional hearing was held, in which the court found that it was in Jessica's best interest she remain in foster care. The court noted that Elizabeth recently returned from Arkansas so she could work on reunification with Jessica. However, Elizabeth soon returned to Arkansas to be with James, despite concerns of domestic violence. Elizabeth and James lived in a campground by a river.

On November 26, 1996, the court entered its order, concluding it was time to fix permanency. The court ruled that due to Elizabeth and James's inconsistent cooperation with services, no further remedial services would be offered. The court concluded Lorraine was a suitable person to be Jessica's guardian, and transferred

custody to her. The court awarded both parents visitation privileges. Both Elizabeth and James have appealed.

Scope of review. We review CINA cases de novo. *In re L.K.S.*, 451 N.W.2d 819, 821 (Iowa 1990). While we are not bound by the findings of the juvenile court, we give them weight, especially as to the credibility of the witnesses. *In re S.V.*, 395 N.W.2d 666, 668 (Iowa App. 1986).

Permanent placement. Elizabeth argues it was not in Jessica's best interest for her to be placed with Lorraine, since Lorraine will not foster positive contacts between mother and daughter. Elizabeth also argues the district court prematurely discontinued services prior to the permanency hearing.

James argues placing Jessica with Lorraine is tantamount to a termination of his parental rights, given the relationship of the parties. He maintains the district court erred in not ordering additional services for another six months as authorized in Iowa Code section 232.104(2)(b) (1995).

Jessica was removed from her parents' care at the age of ten months because of physical abuse, improper feeding, and a history of being improperly clothed. The parents have received DHS services for two years. Bethany Home services provided a report of this family to the DHS in October 1995. Part of the report stated:

Since Jessica has been in foster care, the parents have demonstrated minimal efforts and actions towards reunification. They continue actions which they have been advised against such as smoking in the same room as Jessica who has been diagnosed with asthma or continuing to have numerous people in and out of the house during

Jessica's visits. Bethany Home has provided services since April, but the [parents] do not or are unable to follow the instructions of the workers.

There has not been stability on the parents' part in maintaining a home; within a six to twelve-month span, they have lived in at least four different places, only one of which was their own. In a September 1995 report, Bethany Home services described the home environment during Jessica's visits: "They continuously had several adults in the house at the time of the visits which would lead to arguments, swearing and derogatory comments. In addition to these adults, their house had animals (four pitbulls, two cats, some rats, hamsters and fish), fleas, and cockroaches." The parents also cut many of the visits short as they seemed to have other concerns and responsibilities to attend. The parents have a car, but James does not have a license even though he is the one who drives. James and Elizabeth have a skewed financial sense as they allow bills to remain unpaid while they receive more bills for late fines. The parents became homeless in September of 1995 and moved out of state to live on a campground by a river in Arkansas. Because of this, little progress was made toward reunification for nine months.

The parents have not met their burden of showing Jessica would not be harmed in their care. *See In re Welcher*, 243 N.W.2d 841 (Iowa 1976). They have failed to comply with the case plan. Elizabeth has participated in services sporadically; James has failed to participate in the recommended domestic violence group. Their marital relationship remains shaky. Additionally, Elizabeth has significant mental health

issues. She was to participate in therapy through her physician, but she rarely attended the sessions, and they were ultimately curtailed due to her pregnancy. We further note one-and-a-half years into the case plan, Jessica was twenty-six months old and had been in foster care almost sixteen months. A permanent placement was clearly in Jessica's best interests.

The juvenile court's decision to fix permanency with the grandmother, Lorraine, was supported by the evidence, as well as by DHS and Bethany Home. Lorraine is a veteran foster and adoptive parent who is equipped to deal with special needs children like Jessica. She was involved in the case from the outset and has established a relationship with Jessica through visitation. While Elizabeth expresses a concern Lorraine will not encourage positive contacts between Elizabeth and Jessica, Lorraine has agreed to honor court directives regarding visitation.

As the parents failed to demonstrate substantial progress after two years of services, we find the juvenile court properly declined to order additional services. To do so would serve no purpose but to delay the ultimate permanency for Jessica. Jessica need not endlessly await the maturity of her parents. *In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983). We must reasonably limit the time for parents to be in a position to assume care for their children because patience with parents can soon translate into intolerable hardship for the child. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1994). The parents have shown little interest and have been uncooperative with services provided them since Jessica was adjudicated to be in

need of assistance. We therefore determine Jessica's permanent placement with Lorraine was warranted and we affirm the juvenile court's permanency order.

Having carefully considered all issues before us on appeal, we affirm the juvenile court's findings.

AFFIRMED.