

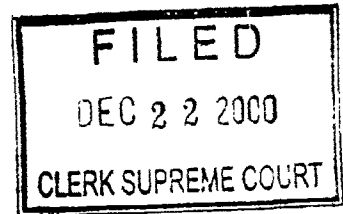
IN THE COURT OF APPEALS OF IOWA

No. 0-685 / 00-1059
Filed December 22, 2000

**IN THE INTEREST OF J.K., S.K. and A.K.,
Minor Children,**

**J.K., Father,
Appellant,**

**K.S.-K., Mother,
Appellant.**



Appeal from the Iowa District Court for Linn County, Robert E. Sosalla,
District Associate Juvenile Judge.

Mother and father appeal from the termination of their parental rights.

AFFIRMED.

Michael M. Lindeman, Cedar Rapids, for appellant-father.

Mary E. Chicchelly of Seidl & Chicchelly, Marion, for appellant-mother.

Thomas J. Miller, Attorney General, Janet Hoffman, Assistant Attorney
General, and Lance Heeren, Assistant County Attorney, for appellee-State.

Annette Martin, Cedar Rapids, attorney for minor children.

Jean Lawrence, Marion, guardian ad litem for minor children.

Considered by Streit, P.J., and Mahan and Vaitheswaran, JJ.

PER CURIAM

A mother and father appeal the decision of the juvenile court which terminated their parental rights. They claim the State did not present clear and convincing evidence to justify terminating their parental rights. We affirm on appeal.

James and Kimberly are the parents of Jeremiah, born in July 1987; Sarah, born in February 1989; and Amber, born in August 1992. The parents have a history of domestic violence. James was convicted of domestic abuse assault of Kimberly in 1988, 1990, and 1992.

The family came to the attention of the Department of Human Services (DHS) in December 1996, due to concerns the parents were not providing dental care for Amber. Amber's teeth were rotten, causing eating and speech problems, but the parents would not take her to a dentist. In May 1997, concerns also arose that Sarah needed extensive dental treatment, which her parents would not provide. Sarah and Amber were adjudicated to be children in need of assistance pursuant to Iowa Code section 232.2(6)(e).

The family agreed to family centered services. Social workers were concerned about alcohol use and domestic violence in the home. Additionally, the family lacked stable housing. There were also concerns the parents allowed an older child, Stephanie, to provide most of the care for Jeremiah, Sarah, and Amber.¹ The parents did not take advantage of other offered services.

In April 1998, DHS issued a founded report of denial of critical care because the parents were not providing medical care for Sarah. Sarah has been

¹ Stephanie became an adult while this case was pending. As such, she was not subject to the juvenile court proceedings.

diagnosed with attention deficit hyperactivity disorder and anxiety disorder. She has been prescribed medication for these problems. The parents did not take Sarah to her psychiatric appointments and did not provide her with medication. The parents continued to fight in front of the children, and there were also reports of fights between Kimberly and Stephanie.

In June 1998, Jeremiah was adjudicated to be a child in need of assistance under section 232.2(6)(c)(2). The parents had another incident of domestic violence and Kimberly received injuries. A no-contact order was issued against James, which he ignored. The parents admitted they drank alcohol on a daily basis. Because of the continuing problems in the family, the children were removed from the home and placed in foster care.

The parents made little progress after the children were removed from the home. They separated for a period of time, then reunited. In October 1998, James was charged with assaulting Kimberly and her boyfriend. He pled guilty to these charges and attended a batterer's education program. He obtained a psychological evaluation in April 1999, which found he had probable intermittent explosive disorder and an adjustment disorder with depressed mood. The same month, James was again charged with domestic abuse assault.

In September 1999, the State filed a petition to terminate the parental rights of James and Kimberly to their three minor children. In December 1999, Kimberly was charged with public intoxication and possession of marijuana. In February 2000, shortly before the termination hearing, Kimberly and James were charged with domestic abuse assault based on a fight they had. During this fight, Kimberly jumped from a second-story window and received injuries. Kimberly

was also charged with assault while displaying a dangerous weapon for threatening Stephanie with a knife. James had a drug test which was positive for cocaine. Kimberly's drug tests were positive for marijuana and alcohol.

The juvenile court entered an order in May 2000 terminating the parental rights of James and Kimberly to Jeremiah, Sarah, and Amber under sections 232.116(1)(e) and (k). The court found the parents' substance abuse and violent lifestyle prevented the children from being returned to their care. The court also found termination was in the children's best interests. James and Kimberly both appealed.

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa App. 1999). Our primary concern is the best interests of the children. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

Although the parents filed separate notices of appeal, they filed a joint appellate brief. At the time of the termination hearing, the parents had been together for twenty-three years. Kimberly testified they did not intend to separate. Therefore, we will address the issues concerning both parents together.

The parents contend the State did not present sufficient evidence to justify terminating their parental rights. The parents wanted to be reunited with the children, and the children wanted to be reunited with the parents. The parents claim they have made attempts to improve themselves.

There is clear and convincing evidence the children could not be returned to the parents' care. Kimberly admitted she was an alcoholic and had not completed any substance abuse treatment at the time of the termination hearing. James also drank alcohol and sometimes used drugs. Neither the father nor the mother had made any attempts to lessen the violence in the home. Shortly before the termination hearing, both James and Kimberly were arrested for domestic abuse assault. Furthermore, the parents did not have stable housing. Kimberly was living in a one-bedroom apartment she admitted was not adequate for the children. James was living in his truck. There was sufficient evidence in the record to warrant termination of the parents' rights.

While the children wanted to be reunited with the parents, a reunification would not be in the children's best interests. Kimberly admitted the children had heard her fight with James, and seen her injuries. She also admitted they had been affected by the violence. Additionally, the children did not receive adequate medical and dental care from the parents. Termination of the parental rights of James and Kimberly is in the best interests of the children.

We affirm the decision of the juvenile court.

AFFIRMED.