

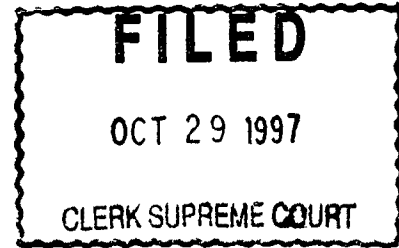
IN THE COURT OF APPEALS OF IOWA

000245

No. 7-516 / 97-991

IN THE INTEREST OF
J.L. and J.A.L., Minor Children,

C.R., Mother,
Appellant.



Appeal from the Iowa District Court for Fremont County, Gary Anderson,
Juvenile Judge.

Mother appeals the juvenile court's order terminating her parental rights over
her minor children. **AFFIRMED.**

Craig M. Dreismeier of Reilly, Petersen & Hannan, P.L.C., Council Bluffs, for
appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General,
and Vicki Danley, County Attorney, for appellee-State.

C. Kenneth Whitacre of Swenson & Whitacre, P.C., Glenwood, guardian ad
litem for minor children.

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

VOGEL, J.

A mother appeals the juvenile court's order terminating her parental rights to her minor children. She argues the State failed to offer her reasonable services aimed at reuniting her with her children. We affirm on appeal.

Cindy is the mother of James, born August 12, 1983, and Justin, born May 4, 1987.¹ James is mildly mentally retarded. Both children have some behavioral problems.

Cindy has had a long involvement with the Department of Human Services (DHS). Between 1985 and 1990, there are seven founded reports against Cindy for denial of critical care of James, and four founded reports of denial of critical care of James and Justin. Cindy received services during this period of time. James was placed in foster care from March 1986 until October 1988, when he was reunited with Cindy. In July 1989, James and Justin were placed in foster care. Justin was returned to Cindy's care in August 1989, and James was returned in June 1990. The juvenile case was closed in January 1991.

Cindy married Herbert in 1991. In October 1992, a founded report of denial of critical care of James and Justin was issued against Cindy and Herbert. The family received services to help improve the condition of the home to meet minimal standards. James and Justin were removed from the home on October 12, 1993, due

¹ The boys' fathers have had no involvement in their lives and do not appeal from the juvenile court's order terminating their parental rights.

standards. James and Justin were removed from the home on October 12, 1993, due to the unsafe and unsanitary conditions of the home. The children had sores on their feet due to poor hygiene. DHS issued another founded report of denial of critical care of James and Justin against Cindy and Herbert.

James and Justin were adjudicated children in need of assistance. The juvenile court determined the children should remain in foster care. Cindy and Herbert were ordered to complete chemical dependency and psychological evaluations. They were also to receive in-home services. James and Justin were to receive individual counseling. The parents were permitted supervised visitation.

Cindy and Herbert did not cooperate with in-home services. They told social workers they did not have any problems. Cindy obtained a psychiatric evaluation in January 1994, which showed she had a mild adjustment disorder with mixed emotional features.

In August 1994, DHS terminated visitation because Cindy refused to cooperate with the case permanency plan. In November 1994, James alleged he had been sexually abused by Cindy and Herbert. DHS issued a founded report of sexual abuse.

In October 1995, the juvenile court determined Cindy could resume supervised visitation if Herbert was not present. James and Justin had an increase in negative behavior after visitation resumed. The visits were so disruptive to the children that in June 1996 they were reduced from two visits per month to one visit per month.

Also, the visits were to be held in the presence of Dr. Mark Beischel, a psychologist. In December 1996, visitation was terminated completely.

On November 20, 1996, the State filed a petition to terminate Cindy's parental rights, pursuant to Iowa Code section 232.116(1)(d). At the termination hearing Cindy asked to have the children returned to her care. The juvenile court terminated her parental rights to James and Justin. Cindy now appeals.

I. 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.K.K.*, 544 N.W.2d 274, 277 (Iowa App. 1995). Our primary concern is the best interests of the child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Cindy contends the juvenile court should not have terminated her parental rights. She claims the State failed to make reasonable efforts to reunify the family. She believes it was unreasonable to terminate her visitation from August 1994 to October 1995, and to subsequently limit her visitation with the children to one visit per month.

Reasonable efforts must be provided to attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994). Generally, DHS must make reasonable efforts to provide services to eliminate the need for removal. *In re T.C.*, 522 N.W.2d 106, 108 (Iowa App. 1994). The

reasonable efforts concept would broadly include a visitation arrangement designed to facilitate reunification while protecting the child from the harm responsible for the removal. *In re M.B.*, 553 N.W.2d 343, 345 (Iowa App. 1996). The nature and extent of visitation is controlled by the best interests of the child. *Id.*

In August 1994, DHS caseworker Vanessa Nownes suggested to Cindy that she cooperate with the case permanency plan. Cindy became irate, yelled, and used foul language. Because Cindy was not cooperative with services, no further visitation was scheduled. In the meantime, allegations arose that Cindy and Herbert had sexually abused James.

Cindy waited a year, until August 1995, before she filed an application to establish visitation. Once visitation was reinitiated, it became apparent the visits were traumatic for the children and caused negative behavior following the visits. Cindy agreed to the recommendation of one visitation per month. Further visitation was not in the best interests of the children. We conclude the State made reasonable efforts to give Cindy visitation with the children, under the circumstances of the case.

III. Cindy claims DHS failed to offer her reasonable services. She asserts she could have benefitted from individual therapy, and that Herbert could have benefitted from a program for sexual abuse perpetrators.

We find Cindy failed to preserve this issue for our review. Parents should demand additional or other services prior to the termination hearing. *In re B.K.K.*,

500 N.W.2d 54, 57 (Iowa 1993). Challenges to services should be made when the case plan is entered. *L.M.W.*, 518 N.W.2d at 807. Cindy did not raise this issue prior to the termination hearing.

IV. Cindy contends the juvenile court gave too much weight to the opinion of Dr. Beischel. Dr. Beischel supervised visitation between Cindy and the children. He was also the children's therapist. Cindy believes that because Dr. Beischel did not perform a formal custody evaluation, it was improper for him to give an opinion on the issue of termination of parental rights.

Cindy did not object to Dr. Beischel's testimony. We conclude she failed to preserve this issue for our review. An issue not presented in the juvenile court, even a constitutional one, may not be raised for the first time on appeal. *In re V.M.K.*, 460 N.W.2d 191, 193 (Iowa App. 1990).

We affirm the decision of the juvenile court terminating Cindy's parental rights to James and Justin. We find this termination is in the children's best interests.

AFFIRMED.