

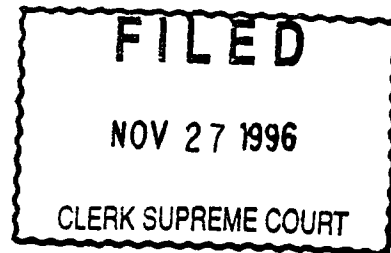
**IN THE COURT OF APPEALS OF IOWA**

No. 6-668 / 96-0499

**IN THE INTERESTS OF A.A., R.A., J.A.,  
A.A., and B.A., Minor Children,**

**P.A., Mother,**

**Appellant.**



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**Appeal from the Iowa District Court for Polk County, Artis Reis, Associate  
Juvenile Judge.**

**The mother appeals from the court's order in a CINA case removing her  
children from her custody. AFFIRMED.**

**Thomas J. McCann, Des Moines, for appellant.**

**Thomas J. Miller, Attorney General, Diane Stahle, Special Assistant Attorney  
General, Maureen McGuire, Assistant Attorney General, John Sarcone, County  
Attorney, and Emily McConkey, Assistant County Attorney, for appellee State.**

**Deanna L. Moore, Ankeny, for minor children.**

**Rodney K. Maharry, Des Moines, for father.**

**Considered by Habhab, P.J., and Huitink and Vogel, JJ.**

**PER CURIAM**

This is an appeal by a mother claiming the juvenile court should not have removed her children from her home in this Children in Need of Assistance case. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Patricia and Randy are the parents of Betty, born in 1990; Albert, born in 1992; Randy, born in 1993; and Anthony, born in 1994. Patricia is also the mother of Jane, born in 1989. In 1992 the Department of Human Services (DHS) issued a founded report of denial of critical care due to unsafe and unsanitary conditions in the home. In October 1994, Anthony tested positive at birth for cocaine exposure. In November 1994, another founded report of denial of critical care was issued due to filthy and unsanitary conditions in the home, and the parents' failure to obtain medical attention for the children. The children were adjudicated to be children in need of assistance and removed from their parents' care.

In 1995, the four oldest children were returned to Patricia's care. At that time an order was entered requiring that Randy have no contact with the children until he completed drug treatment and had submitted two clean urinary analysis reports. Randy completed treatment, but did not participate in aftercare, and he submitted no urinary analysis reports.

In January 1996, DHS issued a founded report of denial of critical care because Patricia had violated the no-contact order by allowing Randy to come into the home. Jane and Betty told the investigator Randy stayed at the home three or four

nights a week. The juvenile court issued an order removing the children from the home. Patricia now appeals.

I. Patricia contends the children should not have been removed from her home. Under Iowa Code section 232.95(2), the juvenile court was required to make a finding that removal was necessary to avoid imminent risk to the children's lives or health.

The children were originally removed from the home due to the risk of drug exposure and inadequate supervision in the home. We also note there had been an incident of domestic abuse between Randy and Patricia in 1995. We agree with the juvenile court's finding that the continued presence of Randy in the home without resolution of the issues of substance abuse and domestic abuse, along with the history of unsafe and unsanitary conditions in the home, supports the removal of the children. We find placing the children in Randy's care created an imminent risk to the children's lives or health.

II. Patricia claims the juvenile court improperly allowed testimony concerning past allegations of sexual abuse by Randy. She states this evidence was not relevant to the present proceedings and should not have been considered by the court.

We find the juvenile court properly overruled the objection to this testimony. The court noted there were only allegations against Randy. Randy testified at the removal hearing that the no-contact order had been entered because of allegations he

was a sex perpetrator. We find it is relevant that Patricia allowed Randy to have contact with the children, knowing there were allegations of sexual abuse against him.

We affirm the decision of the juvenile court to remove the children from Patricia's care. Costs of this appeal are assessed to Patricia.

**AFFIRMED.**