

IN THE COURT OF APPEALS OF IOWA

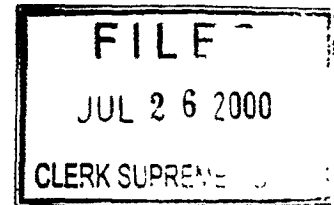
No. 0-370 / 99-1979

Filed July 26, 2000

IN THE INTEREST OF C.A.C. AND S.C., Minor Children,

**S.R.-C., Mother,
Appellant,**

**R.L.C., JR., Father,
Appellant.**



Appeal from the Iowa District Court for Scott County, Michael A. Woods
Juvenile Court Judge.

Mother and Father appeal the juvenile court's order terminating their
parental rights to their children. **AFFIRMED.**

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

Carrie E. Coyle of Carrie E. Coyle, P.C., Davenport, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Gerda Lane, Assistant County Attorney, for appellee
State.

Janice Roemer, Davenport, guardian ad litem for minor children.

Considered by Vogel, P.J., and Miller and Hecht, JJ.

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VOGEL, P.J.

Summer and Roy each appeal the decision of the juvenile court terminating their parental rights. The parents claim: (1) the State did not present sufficient evidence to warrant terminating their parental rights; and (2) termination of their parental rights was not in the children's best interests. Summer also claims the State did not make reasonable efforts to reunite her with the children. We affirm.

Summer and Roy are the parents of Shyanna, born in October 1994, and Carol, born in February 1997. The family came to the attention of the Department of Human Services (DHS) in April 1997 after Carol received second-degree burns on her arm and head. The parents claimed Carol was accidentally burned when she, at just two months of age, rolled from her bed onto a heat vent. The State presented expert medical witnesses opining Carol's injuries were not consistent with the parents' explanations. DHS issued a founded report of physical abuse and denial of critical care. The children were removed from the home and placed in foster care.

Shyanna and Carol were adjudicated to be children in need of assistance pursuant to Iowa Code section 232.2(6)(c)(2) (child is likely to suffer harm due to parent's failure to exercise care in supervising child). The parents were inconsistent in their participation in services. The parents were not consistent in attending meetings with social workers, but they did participate in visitation. Although Roy was inconsistent in attending some of the scheduled visitation, both parents acted appropriately during visits attended. The parents participated

in a social history. They completed a parenting class. Roy was an active participant, but Summer displayed a negative attitude. Both remained hostile to their case workers.

The parents do not have a stable relationship. They separated in September 1997. By October 1998, Summer and Roy had reconciled, even though Summer was pregnant by another man. This child was born in October 1998 and has severe health and developmental problems. Summer tested positive for marijuana at the time of the child's birth. In January 1999, Summer began serving a two-year prison sentence for an assault committed in June 1997. Summer completed classes on self-esteem and anger management while in prison. She was released in May 1999. Summer and Roy were married after her release from prison.

Throughout the case there were concerns about potential substance abuse problems. Roy had a substance abuse evaluation in February 1999, and tested positive for cocaine. He then entered a drug rehabilitation program, but was discharged for noncompliance. Roy did not attend recommended AA-NA classes. As part of her parole, Summer was to participate in random drug testing. She tested positive for marijuana in July 1999.

In May 1999, the State filed a petition to terminate the parental rights of Summer and Roy to Shyanna and Carol. The parents' rights to Shyanna were terminated pursuant to Iowa Code sections 232.116(1)(d) (parent has not maintained significant and meaningful contact) and (e) (child four or over and cannot be returned home). Their rights to Carol were terminated pursuant to

sections 232.116(1)(d) and (g) (child three or younger and cannot be returned home). The court found that despite the children's bond to their parents, it was clear the children's long-term best interests would most appropriately be served by terminating the parents' rights. The court found it extremely unlikely either of the parents would ever establish a truly stable lifestyle. Summer and Roy each appealed.

I. Scope of Review

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 E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the children. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. Sufficiency of the Evidence

The parents contend the State did not present sufficient evidence to warrant termination of their parental rights. They claim the children could safely be returned home. They state Carol was accidentally injured, and there is no evidence the children would be subjected to harm if returned to their care.

A good prediction of the future conduct of a parent is to look at the past conduct. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998). The parent's past performance may indicate the quality of care the parent is capable of providing in the future. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

Even without the question of Carol's injuries, we find the children could not safely be returned to the parents' care at the present time. The parents have not

addressed the issues of substance abuse. Roy tested positive for cocaine in February 1999 and Summer tested positive for marijuana in July 1999. There are also questions of stability. Neither parent has been able to maintain stable housing or employment during their involvement with DHS. The evidence also shows the parents have not addressed the issues they needed to address in order to have the children returned to their care. At some point, the rights and needs of the children rise above the rights and needs of the parents. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa App. 1997). The children have been out of the home since April 1997. While supervised visitations have generally gone well, the parents are not yet in a position to resume care of the children. The success of supervised visitation is an indication of the ability of parents to resume full time care of their children, but is not conclusive. For these reasons, we conclude there is sufficient evidence to warrant termination of the parents' rights to Shyanna under section 232.116(1)(e) and to Carol under section 232.116(1)(g).

III. Other Code Section

When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa App. 1999) (citing *In re A.J.*, 553 N.W.2d 909, 911 (Iowa App. 1996)). Because we have determined the parents' rights were properly terminated under sections 232.116(1)(e) and (g), we need not address their claims regarding section 232.116(1)(d).

IV. Best Interests

The parents claim termination of their parental rights was not in the children's best interests. They state they have a close bond with the children.

Even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the children. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of a child, the court looks to the child's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional condition and needs of the children in deciding to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

The juvenile court observed the parents in the courtroom and made these specific findings:

[T]he parents' bearing and demeanor at the termination of parental rights hearing did nothing to assure the Court that the parents were sincere in their protestations that they are ready, willing and able to provide these children with a safe and stable environment. The mother's appearance was particularly listless and sullen. She claimed to be nervous but appeared sedated. The father's bearing and demeanor was much more impressive than the mother's; however, his actions throughout the course of the case belie his words.

The children are doing well in foster care while the parents have only minimally improved their ability to provide a safe home and adequately parent these children. We find termination is in the children's long-range best interests.

V. Reasonable Efforts

Summer contends the State did not engage in reasonable efforts to reunite her with the children. However, she does not challenge the services

provided by the State. She claims she was not given sufficient time to address the requirements placed upon her by the case permanency plan.

We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 98 (Iowa App. 1996). The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In re D.A.*, 506 N.W.2d 478, 479 (Iowa App. 1993). Children simply cannot wait for responsible parenting. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990).

Summer was incarcerated at the time the Child Abuse Council recommended psychological evaluations for the parents, and she did not obtain a psychological evaluation. She has not participated in individual counseling. She began a batterer's education program, but had not completed it by the time of the termination hearing. Summer was given sufficient time to address the issues which led to the removal of the children. As mentioned above, the children have been out of the home since April 1997, with the termination hearing held on August 9, 1999, and October 26, 1999, two and one-half years following removal.

We affirm the decision of the juvenile court.

AFFIRMED.