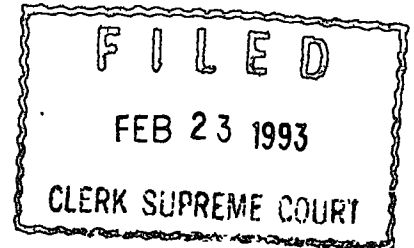


IN THE COURT OF APPEALS OF IOWA

No. 2-647 / 92-1078

IN THE INTEREST OF S.W., A Minor Child,
S.W. and F.W., Father and Mother,
Appellants.



Appeal from the Iowa District Court for Polk County,
Larry J. Eisenhauer, Associate Juvenile Judge.

The mother and father appeal from the juvenile court
order that terminated their parental rights as to S.W.
AFFIRMED.

William F. Denman of Denman & Albers, Des Moines, for
appellants.

Bonnie J. Campbell, Attorney General, and Charles K.
Phillips, Assistant Attorney General, for appellee State.

Thomas J. McCann of Peddicord, Wharton, Thune &
Spencer, P.C., Des Moines, for minor child.

Heard by Oxberger, C.J., and Sackett and Habhab, JJ.

OXBERGER, C.J.

S.W., born March 11, 1981, is the natural daughter of S.W. (father) and F.W. (mother). S.W. is developmentally delayed and has a reported mental age of five years old.

S.W. was removed from her parents' home in December 1987 based on allegations her father sexually abused her. She was adjudicated a child in need of assistance and has been in foster care since that time. She appears to be doing well in her present foster home.

S.W. denies sexually abusing his daughter. However, this court found clear and convincing evidence that he had sexually abused the child. In re S.W., No. 88-1834 (Iowa App. August 23, 1989). Subsequent to this ruling, the juvenile court confirmed S.W. as a child in need of assistance and allowed only supervised weekly visitation with the parents.

Our court again considered this case when the juvenile court held it was in S.W.'s best interests to reduce visitation to once a month. The parents appealed, seeking an increase in visits and a return of their child. We reversed the juvenile court order and ordered weekly supervised parental visits. In re S.W., 469 N.W.2d 278 (Iowa App. 1991). We also ordered the DHS to "continue providing therapeutic services to this family with the goal of maintaining the parent-child bond and attempting to reunite the family in accordance with this opinion." Id. at 281.

Following our ruling, the juvenile court amended the case permanency plan to reflect a goal of family reunification. The juvenile court also ordered the DHS to provide services to the father.

Because the father would not admit he sexually abused S.W., the recommended therapist refused to provide therapy. The parents applied to have a different therapist work with the father. Although the juvenile court approved the application, Polk County refused to provide funding due to concerns regarding the therapist's qualifications. The father has refused other types of services, including weekly meetings with the foster care worker.

Over a year later, the juvenile court granted the State's petition to terminate both parents' rights. The court based its decision, in part, upon S.W.'s behavioral problems and the enhancement of these problems after visitation with the parents. The parents appeal.

Scope of Review

Appellate review of termination proceedings is de novo. In re W.G., 349 N.W.2d 487, 491 (Iowa 1984) cert. denied sub nom. J.G. v. Tauke, 469 U.S. 1222 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. Id. at 491-92.

Discussion

The parents contend the State failed to provide clear and convincing evidence that S.W. cannot be returned to their custody. They claim they have fully cooperated with the DHS and want her returned to their custody.

Iowa Code section 232.116(1)(e) (1991) permits the juvenile court to terminate the parent-child relationship if the court finds all of the following have occurred:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

No dispute exists regarding satisfaction of the first three elements. The dispute turns on whether S.W. may safely return to and reside in her parents' home.

Our prior decision found clear and convincing evidence of sexual abuse of S.W. by her father. A recent Child Protective Investigation found S.W. had also been sexually abused by her mother, at the invitation of her father. Neither parent admits abusing S.W. Neither parent provided any information regarding who or what may have caused the physical manifestations of abuse, except to say that perhaps S.W. herself caused the physical signs. Although

S.W.'s communication skills are limited, she apparently continues to express fear regarding whether her parents will hurt her.

S.W.'s individual therapist, Bruce Buchanan, diagnosed S.W. as suffering from posttraumatic stress disorder due to the sexual abuse. He further testified she would continue to suffer from such symptoms until she resolved the issues and felt continually safe.

Extremely persuasive testimony was elicited from Cindee Davis, a clinical psychologist who evaluated S.W., F.W., and daughter S.W. Although Davis testified the interaction she observed between the parents and child was appropriate and loving, she also testified:

It seems to be a consensus of opinion from what we've read and what we've been taught in our training, that to reunite an offender with a victim when the offender has not been treated, again, only increases the risk that the child will be abused again in the future and may lead to serious emotional damage to the victim.

The testimony of Buchanan and Davis indicates the presence of risk of further sexual abuse to S.W. While we acknowledge that a loving relationship may exist between S.W., F.W., and S.W., we cannot ignore the potential for harm present in this situation.

In addition, the testimony of Buchanan; Bev Miller, the foster care worker; and Connie MacLellan, the Child Protective Investigator, supports the juvenile court's finding ongoing harm to S.W. as a result of weekly visitation.

Accordingly, we affirm the juvenile court's termination of parental rights.

AFFIRMED.