

IN THE COURT OF APPEALS OF IOWA

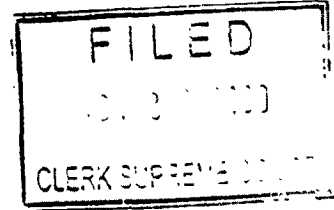
No. 0-561 / 00-0484
Filed November 20, 2000

IN THE INTEREST OF

J.H., Minor Child

I.H. and D.H., Parents

Appellants.



Appeal from the Iowa Juvenile Court for Linn County, Susan Flaherty,
District Associate Judge.

Parents appeal the termination of their rights to their son. **AFFIRMED.**

E. Daniel O'Brien, for appellants.

Thomas J. Miller, Attorney General, Tabitha Gardner, Assistant Attorney
General and Susan Conn, Assistant County Attorney for appellee-State.

Christine L. Crilley of Crilley Law Office, Cedar Rapids, for the minor child.

Considered by Sackett P.J. and Vogel, J.J., and Honsell, S.J.*

Senior judge assigned by order pursuant to Iowa Code Section 602.9206.

HONSELL, S.J.

J.H. was born on July 1, 1995. He was removed from the custody of his parents, I.H. and D.H., on July 2, 1998, pursuant to an emergency order. On November 23, 1998 J.H. was adjudicated to be a child in need of assistance. A petition seeking termination of the parental child relationship was filed on November 17, 1999 and subsequent to trial the parental child relationship was terminated on March 14, 2000.

On April 17, 1998 a Department of Human Services social worker was in the residence occupied by I.H., D.H. J.H., S.C., R.T. and T.C. S.C. is an over-the-road truck driver and at home only about five days a month. She is the parent of R.T. and T.C. S.C., who is the owner of the residence, was receiving services provided by the D.H.S. I.H. and D.H. were acting as caretakers for the children of S.C., who is the sister of I.H. The home is a two-bedroom home. Although S.C. was home for only a few days each month, she kept her bedroom door locked and would not permit it to be used by anyone else. The children's bedroom was in the basement. A D.H.S. social worker who had been in the home stated that the paint on one of the walls was peeling and the wall needed repair. The social worker also observed feline fecal matter and urine on the floor. The social worker instructed I.H. to have the children sleep upstairs and to clean up the basement room and repair the wall. The situation was monitored and it was observed that I.H. did not comply with the request. D.H.S. also contracted with a therapist to provide services to I.H. and D.H. in regard to parenting J.H., as well as R.T. and T.C. The therapist soon concluded that I.H. and D.H. were ruling the children through fear and intimidation. At the request of the social

worker, an inspector from the City of Cedar Rapids viewed the bedroom and declared that it could not be used for that purpose since there were no fire exits.

On the day that the city inspector viewed the bedroom, I.H. and S.C. went to the D.H.S. office and confronted the social worker. They indicated that they would not comply with D.H.S. requests. An emergency removal order was obtained, however, before it could be executed the children were taken to Tennessee. Later in June of 1998, I.H. and D.H. brought J.H. back to Iowa and turned him over to D.H.S.

Premised on the foregoing the court adjudicated J.H. as a child in need of assistance. J.H.'s temporary custody was continued with D.H.S. D.H.S. was given latitude with regard to visitation being supervised, semi-supervised or unsupervised. A predisposition report was also ordered.

The disposition hearing was held on January 14, 1999. The court placed J.H. in the custody of D.H.S. for foster family care. The parents were ordered to undergo psychological testing, and a case permanency plan was to be prepared.

The psychological testing was done and the permanency plan prepared. The testing results and plan objectives were met with limited results.

I.H. has for the most part been employed outside the home full-time. He completed his psychological evaluation with anger management and conflict resolution issues being pointed out as problems that needed to be addressed. He does not agree and does not want to change. His participation in parenting sessions has been very limited; by October of 1999 he had improved his parenting skills somewhat. However, he remains resistive to suggested course of action concerning anger management. Improvement was minimal concerning

parenting skills, and there is an indication that the parenting skills would be disregarded when visits would no longer be supervised.

Some of the time during the pendency of this case D.H. has been employed outside the home. She made some limited progress with regard to parenting by applying suggestions concerning parenting when visiting with J.H. She completed her psychological evaluation. She has diabetes, however, she does not always properly medicate herself and has been hospitalized for failing to do so. She maintains that there is not enough income in the home to care for the family and buy medication. When suggestions were made concerning different means of resolving this problem, she declined to follow through with them.

Starting in July 1998 parent skill building services were offered and provided for more than a year as well as supervised visits. I.H. and D.H. have not been as receptive as hoped and have made only minimal progress. They lack insight with regard to reasonable parenting and safety issues. There has been resistance to anger management counseling, refusal to participate in offered budget counseling, and D.H. has not been able to manage her diabetes.

I.H. and D.H. moved to their own two-bedroom home in December of 1998. Over time it became dirty, and during a home visit the supervisor monitoring visitation moved the visitation outside because a cockroach had to be removed from J.H.'s face. On another occasion I.H. reported that the home was too dirty for visitation, so for a time visitations were held at other locations. During October of 1999 they moved from the property and stayed with relatives. It was suggested that they seek subsidized housing, but they didn't follow

through with the offer to help find subsidized housing. In January of 2000 they rented a one-bedroom apartment and fell behind on paying rent. Additionally, the apartment was not adequate to house J.H. During this time I.H. still missed supervised visits, anger management remained a problem as did inconsistent improvement by D.H. with regard to parenting skills. D.H. was employed at the time of the termination trial and had been since December of 1999. I.H. and D.H. were still struggling to pay bills, including the utilities. The electricity was turned off. D.H. was still having difficulty managing her diabetes. They continued to place blame on others for their problems and continued to demonstrate a lack of insight concerning parenting issues.

I. Scope of Review.

The review in termination proceedings is de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Although they do not bind us, we give weight to the trial court's findings of fact, especially when considering credibility of witnesses. Iowa R. App. R. 14(f)(7); *In re M.M.S.*, 502 N.W.2d 4, 5 (Iowa 1993). The primary interest in termination proceedings is the best interests of the child. Iowa R. App. P. 145(f)(15); *In re R.K.B.*, 572 N.W.2d 600, 601 Iowa 1998). To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence. See Iowa Code § 232.116. "Clear and convincing evidence" means there are no serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence. See *Raim v. Stancel*, 339 N.W.2d 621, 624 (Iowa App. 1983).

II. Best Interests.

Our primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995). Those best interests are determined by looking at the child's long-range as well as immediate interests. We consider what the future likely holds for the child if that child is returned to his or her parents. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981); *In re T.T.*, 541 N.W.2d 552, 555 (Iowa App. 1995). 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). Case history records are entitled to much probative force when a parent's record is being examined. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993).

III. Return of child to parental care.

Reasonable services 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). While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa App. 1997). Preserving families is the underlying principle behind these proceedings. *In re C.D.*, 508 N.W.2d 97, 100 (Iowa App. 1993). A parent's challenge to services should be made when they are offered. *In re H.H.*, 528 N.W.2d 675, 678 (Iowa App. 1995).

Family centered services, parenting skill development, mental health counseling, budget counseling, supervised visits and marital counseling have

been made available I.H. and D.H. There has not been reasonable improvement in areas, which would lead to J.H. being provided with a safe, sanitary and stable living environment. Reasonable services were provided, however, while the State fulfilled its responsibility, I.H. and D.H. did not follow through.

We affirm the decision of the court and the termination of parental rights.

AFFIRMED.