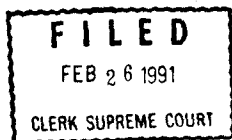


IN THE COURT OF APPEALS OF IOWA

No. 0-738 / 90-1056

IN THE INTEREST OF S.J.C. and A.M.C,
Minor Children

C.D.C. and R.C., Parents,
Appellants.



Appeal from the Iowa District Court for Poweshiek
County, Gene W. Glenn, Juvenile Referee.

Parents appeal juvenile court confirming CINA
adjudication and foster care placement. **AFFIRMED.**

C. Jean Pendleton of Charnetski, Olson & Lacina,
Grinnell, for appellants parents.

Bonnie J. Campbell, Attorney General, Gordon E. Allen,
Deputy Attorney General, and Kathrine S. Miller-Todd,
Assistant Attorney General, for appellee State.

Donald L. Schild, Grinnell, guardian ad litem for the
children.

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

OXBERGER, C.J.

This case involves two children, S.J.C., a boy born in August 1987 and A.M.C., a girl born in February 1989. Their parents are married to each other.

The girl was removed from the parents' home at approximately three weeks of age, due to failure to thrive and concerns about inadequate nutrition, medical care and sanitation provided by the parents. She was adjudicated a child in need of assistance (CINA) in April 1989 and has been in foster care continually since then.

The boy was also adjudicated CINA in April 1989. Initially he remained in his parents' home, subject to supervision. However, in the summer of 1989, when he was not quite two years of age, he was also placed in foster care; he has remained there since. Again, the Department of Human Services' (DHS) concerns included failure to thrive and inadequate nutrition, medical care and sanitation. In addition, there were concerns about the boy's developmental delays.

In a series of review orders, the juvenile court confirmed the children's CINA adjudications and foster care placement. The parents have appealed the review order of June 1, 1990.

The parents challenge the sufficiency of the evidence establishing the children would suffer harm if returned to their home. They also contend the juvenile court

erroneously relied on their intellectual limitations in deciding to continue foster care placement. The parents argue the court violated their right to substantive due process by weighing their intellectual limitations against the possible higher intellectual environment in a foster home.

We review CINA adjudications de novo. In re A.C., 415 N.W.2d 609, 614 (Iowa 1987) cert. denied 485 U.S. 1008, 108 S. Ct. 1474, 99 L. Ed. 2d 702 (1988). We give weight to the fact findings of the juvenile court, but are not bound by them. Iowa R. App. P. 14(f)(7). Our first and governing consideration is the best interests of the children involved. Iowa R. App. P. 14(f)(15).

A rebuttable presumption exists that maintaining children in their parents' home serves their best interests. In re T.D.C., 336 N.W.2d 738, 740 (Iowa 1983). When seeking the return of children removed from their home by a CINA proceeding, parents carry the burden of proving by a preponderance of the evidence the children would not suffer harm if returned. Iowa Code § 232.102(7); In re Blackledge, 304 N.W.2d 209, 214 (Iowa 1981). In determining the best interests of children, we look at present conditions and past performance, because the past performance "may be indicative of the quality of future care" the parents are capable of providing. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

Both children were adjudicated CINA pursuant to Iowa Code section 232.2(6)(b) which provides that parents have "physically abused or neglected the child, or is imminently likely to abuse or neglect the child." The problems of this family revolve around physical and emotional neglect rather than physical abuse. Both children exhibit retarded growth, and delays in cognitive and social development. Experts have opined that without intensive support, both children are at risk for mental retardation. Everyone working with the family at the time of the hearing held reservations about the parents' current ability to provide the care these children desperately need to achieve satisfactory development. In light of the overwhelming weight of reservation, we do not find the juvenile court erred in refusing to return these children to their parents' home at the present time.

We do not agree with the parents that the court placed an unreasonable burden on them, or required they be "super parents" before their children are returned. We find the court identified these children as "special needs" children requiring extensive parenting just to prepare them for functioning in the world. These parents are not being denied the right to raise these children in their home so that average children can become above average children, but rather to assist these children in overcoming the strong possibility of future border-line retardation. In

this case, providing adequate care for these children requires parenting skills in addition to those required for most children.

We are impressed with the concerted effort both parents have exhibited in preparing themselves for the return of their children in the face of considerable adversity. We sincerely hope the father can overcome his chemical addiction to alcohol and remain in the home to support his family, as well as cooperating with, and implementing the assistance provided to him from DHS. Further, we hope the mother continues to cooperate and implement the instructions and lessons provided by DHS. Both parents obviously love their children and are working hard to improve their parenting skills so the children can eventually be returned to their home.

DHS currently provides extensive services to the foster parents of these children to assist in assuring they receive the care and support necessary for their development, both physically and mentally. We believe these same intensive services could eventually be given to the parents after they acquire basic parenting skills, so these children can be returned to their home. We believe DHS should and must continue to assist these parents in learning the skills necessary to adequately parent these "special needs" children. The parents have made great strides since the early days of DHS involvement in their

lives and they should be congratulated and encouraged as well as allowed to use their newly acquired skills in caring for their children. We expect these parents will be allowed increased interaction with their children so their ability to parent can be based on their newly acquired skills rather than reliance on their old behaviors.

We affirm the juvenile court order of June 1, 1990, and assume the parents as well as the children will be provided continued assistance from DHS geared toward the goal of returning the children to their parents' home.

AFFIRMED.