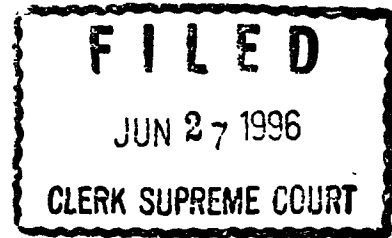


IN THE COURT OF APPEALS OF IOWA

No. 6-280 / 95-2146

IN THE INTEREST OF M.R., A Minor Child,
S.F., Father,
Appellant.



Appeal from the Iowa District Court for Scott County, James A. Weaver,
Judge.

The father challenges the order terminating his parental rights as to M.R.
AFFIRMED.

Robert J. Phelps of Phelps & Phelps, Davenport, for appellant.

Thomas J. Miller, Attorney General, and Charles K. Phillips, Assistant
Attorney General, for appellee state.

Donna M. Humpal of the M.W. Liebke Law Office, Davenport, guardian ad
litem for minor child.

Heard by Cady, P.J., and Huitink and Vogel, JJ.

HUITINK, J.

S.F. appeals the juvenile court's order terminating his parental rights to his child, M.R. We affirm.

M.R. and her half-brother were removed from their parents' home in September 1993. Their removal was ordered after their mother, V.R., left them in the care of S.F. who, because of his seizure disorder, mental illness, and substance abuse, was unable to care for them. The home where the children were found was described as "unfit" and "presented serious health hazards to the children." The children were described as "filthy" and they smelled of urine. The record also indicated these children had "little food intake" for a few days, as the mother had not left enough food for them. On November 23, 1993, the children were adjudicated children in need of assistance as a result of their parents' neglect and failure to provide adequate supervision. On the same day, custody of both children was returned to V.R. subject to conditions imposed by the juvenile court. In December 1993 the children were placed in family foster care at their mother's request where they remained at the time these termination proceedings were initiated.

From the time the children were placed in December 1993 until June 1994, S.F. was incarcerated as the result of a burglary conviction. He was accordingly not considered as a placement alternative and did not participate in any of the remedial services designed to remedy the adjudicatory harm in this case.

The record also indicates that S.F. has a substantial history of a debilitating mental illness. He suffers from explosive disorder, dysthymic disorder, and mixed personality disorder. These problems have been compounded by many years of substance abuse. Although S.F. has undergone treatment for these disorders, these efforts have been unavailing. At the time of the termination hearing, S.F. had discontinued all treatment for his mental illness. There is also expert testimony indicating S.F. is unable to meet his own needs without assistance and that he is incapable of parenting M.R. The record further reveals that S.F. has had extensive experience with DHS prior to these proceedings. He is the father of four children, all of whom have been the subject of juvenile court intervention. S.F.'s parental rights to all of his children have been terminated.

In February 1995, S.F. requested the department arrange for visitation with M.R. Because M.R. had been in foster care for one and one-half years and had not seen S.F. for fifteen months, the department initially denied his request. Visitation was also denied because DHS was uncertain S.F. was M.R.'s father. After blood tests confirmed paternity, S.F. was notified by letter that he would need to meet with a social worker to discuss visitation arrangements.

S.F.'s attorney subsequently contacted DHS requesting a "list" of things S.F. had to do to obtain visitation. S.F. claims the "list" was never provided. A social worker testified that she made two appointments to meet with S.F., but he was not

available to meet with her. Another worker testified S.F. agreed to accept mental health treatment only if he was permitted to regain custody of M.R.

On December 4, 1995, the juvenile court terminated V.R.'s parental rights to M.R. at V.R.'s request. The court also terminated S.F.'s parental rights citing his failure to improve his circumstances through necessary mental health treatment, the failure of past remedial services, and his failure to pursue visitation.

On appeal, S.F. contends DHS failed to make reasonable efforts to reunite him with M.R. He cites DHS's denial of his 1995 visitation request and their refusal to provide him with necessary remedial services.

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 (1965). 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.

Our primary concern in termination proceedings is the best interest of the child. Iowa R. App. P. 14(f)(5); *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). In deciding what is best for the child, we look to the child's long-range as well as immediate interests. We also look to the past performance of the parents because it is an indication of the quality of the future care the parent is capable of providing. *Id.*

The State is required to make reasonable efforts to reunite the parent and child prior to termination. *In re C.L.H.*, 500 N.W.2d 449, 453 (Iowa App. 1993). In proceedings to terminate parental rights, the reasonableness of services the State has offered in an effort to preserve the family should be very carefully scrutinized. *In re C.D.*, 508 N.W.2d 97, 100 (Iowa App. 1993).

The failure of the parents to comply with DHS's case plan cannot be an independent ground to terminate parental rights. *In re J.L.P.*, 449 N.W.2d 349, 352 (Iowa 1989). However, that failure can be considered as evidence of the parent's attitude toward addressing the problems that resulted in the loss of custody in the first place. *Id.* It is too late to challenge a reunification plan at the termination hearing. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994).

We are convinced DHS made reasonable efforts to reunite M.R. with her father. S.F. has been the recipient of a variety of remedial services for many years and cannot seriously assert he was unaware of the conditions under which reunification would occur. His refusal to seek necessary treatment unless he regained custody of M.R. underscores the futility of further attempts to remedy the adjudicatory harm. We will not force M.R. to endlessly await her father's decision to make the treatment commitment essential to reunification. *See In re T.D.C.*, 336 N.W.2d 738, 744 (Iowa 1983).

The juvenile court correctly determined that S.F. “has not enhanced his ability to parent by failing to pursue visits and participate in remedial services.” We accordingly affirm the decision of the juvenile court.

AFFIRMED.