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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF A.R.J., JR. AND D.L.J., Children;

A.R.J., SR., Natural Father,

Appellant.

Filed May 28, 1985

5-203
84-817

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Appeal from the Iowa District Court for Polk County - Vincent M. Hanrahan, Judge.

The natural father of two minor children appeals from the trial court's order terminating his parental rights. AFFIRMED.

Robert Clauss, Des Moines, for appellant.

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

Considered by Snell, P.J., and Hayden and Sackett, JJ.

SACKETT, J.

In December of 1981 A.R.J., Jr., and D.L.J., were determined to be children in need of assistance and placed in the custody of what was then the Polk County Department of Social Services. In July of 1982, another hearing was held and the placement was continued. In September of 1983, a petition for termination of parental rights was filed. After hearing, the court ordered parental rights terminated. An appeal has been taken by A.R.J., Sr. from the order terminating his parental rights.[1]

The sole issue raised on appeal is whether the trial court erred in granting termination because there was not sufficient nor clear and convincing evidence that the children could not be returned to the custody of their parents. In a termination proceeding the issue of whether a child will suffer harm by return to the parent must be shown by the clear and convincing evidence standard that Iowa Code section 232.116(5)(c) requires. In Interest of T.D.C., 336 N.W.2d 738, 740 (Iowa 1983); In the Interest of Chad, 318 N.W.2d 213, 219 (Iowa 1982).

Our review is de novo. We accord weight to the fact findings of the juvenile court, especially when considering the credibility of witnesses, but are not bound by the trial court's finding. Central to the determination is the best interest of the children. We look to the children's immediate and long-range interests. We must consider what the future will hold if the children are returned to their parents. Insight can be gained from the parents' past performance, for it may be indicative of the quality of future care they are capable of providing. See T.D.C., 336 N.W.2d at 740-41.

The father's position is that none of the State's witnesses interviewed him personally. He denies that he was responsible for any of the alleged physical

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[1] R.W., the natural mother whose rights were also terminated, has not appealed.

abuse, and his lack of cooperation is because he feels he is being subjected to unwarranted State interference in his relationship with his children.

A.R.J., Sr., and R.W., the natural mother of A.R.J., Jr., and D.L.J., were divorced when the children were quite young. After the divorce the children went to live with their paternal grandmother, Bertha. Bertha lived with the children in Louisiana and subsequently moved to Des Moines. In 1979 A.R.J., Sr., and his second wife came to Des Moines and obtained custody of the two children. R.W., the natural mother, has assumed little if any care of the children.

During the time the children lived with A.R.J., Sr., and his second wife, the record is replete with accounts of the children being beaten, standing in a corner for hours and being hungry. D.L.J., was punished by having his hands held in the snow until he suffered frontbite. Ultimately the children were taken from A.R.J., Sr. At that time they were examined in the pediatric emergency room at Broadlawns Medical Center. A report filed by an attending physician showed A.R.J., Jr., then 7 years of age, to have the following injuries:

> . . .chest showed lesions of the right anterior . . . in the shape of half moons, not consistent with normal childhood fall and play type injuries. The lesions appear to be compatible with whip type lesions . . . . There were also small dermal lesions, as previously described, on the anterior chest, half moon in nature . . . as well as several lesions on the right side of the patient's body. Extremities showed many whip-like lesions on the right arm. . . . Cannot rule out child abuse or neglect.

A report on D.L.J., then 6, showed the following:

> . . . His chest showed old lesions of the dermis along with current recent lesions. They were curved and linear in nature and they were not compatible with the usual childhood injuries and falls. They are consistent with possible whip type injuries. There were various areas of bruising and ecchymosis noted in various states of resolution consistent with blunt trama. . . . The patient's back and sides showed numerous lesions similar to those described on the chest, being curved and linear in nature, in various states of resolution, as well as large areas of ecchymoses

> and bruising in various states of resolution. Not typical of usual childhood injuries. Cannot rule out a whip type etiology of these lesions. . . . there were several areas of ecchymoses and bruising as well as the linear and curved dermal lesions previously described on the patient's chest, back and sides. . . . Could not rule out suspected child abuse or neglect.

Both youngsters were determined to be anxious and fearful of their environment and adult authority.

The children had been out of A.R.J., Sr.'s home nearly two years at the time of the termination hearing. During that time A.R.J., Sr., had virtually no contact with the children, despite the fact that involvement was recommended and encouraged by Social Services. A.R.J., Sr., also made no attempts to advise anyone of his current address or whereabouts.

There is clear and convincing evidence in the record that the children were abused. The children have previously been adjudicated children in need of assistance, and have been out of A.R.J., Sr.'s home for nearly two years. A.J.R., Sr., was offered services to help correct the problem but the services were refused, and, other than one letter, A.R.J., Sr., has had no contact with the children nor shown any interest in them since they were placed with Social Services. Coupled with the strong evidence of abuse, A.R.J., Sr.'s failure to accept offered services and maintain contact or show interest in these children since the adjudication, conclusively establishes by clear and convincing evidence that the children cannot be returned to A.R.J., Sr.'s home. See In Interests of W.G., 349 N.W.2d 487, 492 (Iowa 1984).

The termination order is affirmed.

AFFIRMED.