IN THE COURT OF APPEALS OF IOWA

No. 1-492 / 00-2092
Filed September 12, 2001

**IN THE INTEREST OF M.S.D. and M.A.D.,
Minor Children,**

**M.W.D., Father,
Appellant,**

**A.S.D., Mother,
Appellant.**

FILED
SEP 12 2001
CLERK SUPREME COURT

Appeal from the Iowa District Court for Harrison County, Kathleen A. Kilnoski, District Associate Judge.

Parents appeal the decision of the juvenile court which terminated their parental rights to their two minor children. **AFFIRMED.**

William T. Early of Kohorst, Early, Gross & Louis, Harlan, for appellant father.

Joel T. Niebaum of Kellogg Law Firm, Missouri Valley, for appellant mother.

Thomas J. Miller, Attorney General, M. Elise Pippin, Assistant Attorney General, and Judson L. Frisk, County Attorney, for appellee State.

Jack J. White, Missouri Valley, guardian ad litem.

Considered by Sackett, C.J., and Huitink and Vaitheswaran, JJ.

SACKETT, C.J.

Parents appeal the decision of the juvenile court which terminated their parental rights to their two minor children. They claim the State did not present sufficient evidence to warrant termination of their parental rights. We affirm on appeal.

Michael and Amy are the parents of Michaela, born in July 1998, and Misty, born in August 1999.[1] The parents have an extensive history of substance abuse, primarily with methamphetamine.

Misty was born with amphetamine in her system. Amy admitted she had used methamphetamine during her pregnancy. Misty was removed from her parents' care at the time of her birth. Michael became enraged when he heard of Misty's drug test, and while holding Michaela, pushed Amy off an elevator. Hospital personnel called security because Michael was out of control. The Department of Human Services (DHS) issued a founded report of denial of critical care against Amy because of the drugs in Misty's system. Misty was found to be a child in need of assistance pursuant to Iowa Code section 232.2(6)(o) (1999).

In September 1999, Michael was charged with first-degree burglary, aggravated domestic assault, aggravated assault, and public intoxication after Michael threatened Amy and others with a knife. Michael was ordered not to have contact with Amy. He was placed on probation. Michaela was then

[1] Michael and Amy previously had their parental rights terminated to four older children. The parents have received services since 1995.

removed from her parental home and placed in foster care. Michaela was found to be a child in need of assistance pursuant to sections 232.2(6)(c)(2) and (n).

The parents had previously been ordered to attend in-home family therapy. The parents were to have a substance abuse evaluation and follow all the recommendations given in the evaluation. They were also ordered to attend individual therapy. Amy had a psychiatric evaluation which determined she had a substance abuse psychotic disorder, methamphetamine dependence, and a mixed personality disorder.

In April 2000, Michael and Amy each entered an in-patient substance abuse treatment program. Michael completed treatment in May 2000. Amy was discharged without completing treatment. Michael and Amy had a son in August 2000. He had methamphetamine in his system when he was born. He was placed in foster care. Amy then entered an inpatient chemical dependency program, which she successfully completed. Michael and Amy began to receive individual therapy.

In October 2000, the State filed a petition to terminate the parental rights of Michael and Amy to Michaela and Misty. The juvenile court terminated the parents' rights under sections 232.116(1)(g) and (k). The court noted the parents had failed to respond to services until two or three months before the termination hearing. The court stated, "Although these parents have made recent strides toward becoming sober, the court cannot help but be concerned about their

chronic substance abuse and the chaotic lifestyle associated with it." Michael and Amy appeal the juvenile court's decision.[2]

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

The parents claim the State did not present sufficient evidence to warrant termination of their parental rights. They admit they did not completely comply with the juvenile court's orders, but assert they came close. They point out they were free from illegal substances for several months, they had a home, and Amy was employed. Michael testified an injury prevented him from being employed at the time of the termination hearing.

We commend Michael and Amy on the progress they have made. We recognize though now sober, there are no guarantees they will remain so. It is difficult for us to predict their chances of success from a written record. Therefore, giving the required deference to the factual findings of the juvenile court, we affirm.

AFFIRMED.

[2] Amy joined in Michael's brief on appeal, and did not file her own brief.