

IN THE COURT OF APPEALS OF IOWA

No. 2-1175 / 12-2075
Filed January 24, 2013

**IN THE INTEREST OF V.K., P.K., and A.K.,
Minor Children,**

F.K., Father,
Appellant,

V.K., Mother,
Appellant.

Appeal from the Iowa District Court for Keokuk County, Crystal S. Cronk,
District Associate Judge.

A father and mother appeal separately from the order terminating their
parental rights. **AFFIRMED ON BOTH APPEALS.**

Dustin D. Hite of Heslinga, Dixon, Moore & Hite, Oskaloosa, for appellant
father.

Diane Crookham-Johnson of Crookham-Johnson Law Office, P.L.L.C.,
Oskaloosa, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and John E. Schroeder, County Attorney, for appellee State.

Amber Thompson, Sigourney, for minor children.

Considered by Potterfield, P.J., and Danilson and Tabor, JJ.

DANILSON, J.

A mother and father appeal the termination of their parental rights to their three children: V.K., born in 2009; P.K., born in 2010; and A.K., born in January 2011. Upon our de novo review, we find clear and convincing evidence to terminate parental rights pursuant to Iowa Code section 232.116(1)(h) (2011): at the time of the termination of hearing all three children were under the age of three, had been adjudicated children in need of assistance, had been out of the parents' custody for at least six of the last twelve months, and could not be returned to the parents' care. In fact, the children were out of the parents' care from May 20, 2011, through the termination hearing, which began on September 21, 2012, except for a brief trial home placement from May 4 to June 18, 2012.

The children's situation was initially investigated in May 2011 due to allegations of sexual abuse of V.K. by the father, and unsafe and unsanitary living conditions. The doctor at the Child Protection Center who examined the girls upon their removal from the home stated the children were the dirtiest children she had seen in her career. V.K., who was two years old at the time, was "overly protective of her genital area" and had redness in, and discharge from, her vaginal area.¹ All three children had severe diaper rashes—A.K.'s diaper rash was "so severe it was bleeding and had dirt in the crevices." The bottom of P.K.'s feet were not visible because they were covered with filth. A

¹ Samples of the discharge were sent away for analysis. Several months later the result of the analysis was that the fluids were only that of the child's. The initial child abuse assessment of the allegations of sexual abuse was "not confirmed." However, due to the unsanitary conditions of the children's home and their personal hygiene conditions, the children's removal was continued, the children were adjudicated children in need of assistance, and the Department of Human Services began providing services to the parents and children.

May 19, 2011 child abuse assessment was founded upon denial of critical care for failure to supervise.² At the time of their removal, “[a]ll three of the children were behind developmentally in speech, motor skills, pretty much all the areas.”

The children made good progress with the services provided to them while in foster care. In May 2012, the children were returned to the parents for a trial home visit. Within a short time of being returned to their parents, the two older children regressed. In their therapy sessions V.K. and P.K. spoke little and wanted to sit on the therapist’s lap and be rocked. Both V.K. and P.K. made statements that the father had hit the mother with a broom. The mother denied any physical abuse, but acknowledged she and the father screamed at one another often and the children cried for long periods of time. A June 2, 2012 notation in a child abuse assessment report³ stated the children were “filthy.” The abuse report was founded for failure to meet the children’s “gross emotional needs.”

In early June 2012, A.K.’s daycare provider noticed an injury in the upper thigh region of the child’s legs. As a mandatory abuse reporter, the daycare called child protective services. The child was taken to the doctor, who could not determine precisely what caused the injuries but believed they were consistent with a burn, and suggested it might be from a curling iron. A child protective worker (CPW) questioned the parents about the injuries. They indicated it was diaper rash and occurred when a babysitter was caring for the children for an

² There had been another founded child abuse assessment on May 10, 2011, based on denial of adequate shelter. Due to that earlier assessment, the children temporarily left the home until the parents had cleaned it to DHS’s satisfaction. Just nine days later, the home was again not suitable for the children.

³ At least three child abuse assessments were conducted in and after May 2012.

hour or two. Despite knowing that the children were only to be cared for by approved providers, the parents knew only the babysitter's first name (Abby), had learned about her from an unknown "friend" on Facebook, and had no contact information for the person. The CPW sent pictures of the injuries to two other doctors: each opined the injuries were consistent with chronic diaper rash. The CPW did not confirm physical abuse, but assessed the risk to the children as "high" based on prior founded abuse reports, the parents' involvement with services, and the parents having allowed an unknown caretaker to babysit the three young children.

The children were returned to foster care on June 18, 2012. In July and August visits with the parents were semi-supervised. In August 2012, the foster mother indicated V.K. and P.K. were touching each other inappropriately. When the foster mother attempted to redirect the children, V.K. said something to the effect of "Why? My daddy does this too." V.K. told the foster mother "daddy" touched her genital area with his finger and his "winkie." Follow up investigation resulted in several disclosures suggesting sexual abuse by the father, and a September 2012 addendum to the child abuse assessment found sexual abuse and incest by father.

Visits with mother were fully supervised at the time of the September 2012 termination hearing. The father was in jail at that time awaiting trial on charges of sexual abuse and incest. The mother was no longer participating in the children's therapy sessions. DHS social worker, Brenda Bartz, testified the services provided to the family during the course of the juvenile proceedings were listed in her case summary (exhibit 8), which included Family Safety, Risk,

and Permanency (FSRP) services, play therapy, family team meetings, and protective day care. In the summary, Bartz noted that the parents requested marital counseling and help cleaning the home. She also noted the parents were “provided information for counseling (BHIS)” and that “FSRP staff is addressing the request for help cleaning the home.” Bartz testified it would be ten months to a year of continued services and parental progress before the children might be returned to the parents’ custody. She recommended termination of parental rights due to the length of time the children had already been out of the parents’ custody and the children’s need for permanency.

Even acknowledging that there is a bond between the mother and children, we agree with the juvenile court that any parent-child bond did not preclude termination. Giving “primary consideration to the child[ren]’s safety, to the best placement for furthering the long-term nurturing and growth of the child[ren], and to the physical, mental, and emotional condition and needs of the child[ren],” we conclude termination is in their best interests. See Iowa Code § 232.116(2).

We reject the claim that reasonable efforts were not made to reunite the children with the parents. The services the parents asked for in June 2012—marital counseling and home cleaning at state expense—are not available services. Those working with the family did provide contact information for entities that offered counseling on a sliding-fee basis. And suggestions about how to keep the home safe and clean for children had been on-going throughout the case’s history.

We also find no basis to conclude that the DHS evaluated the mother's ability to parent based upon her financial condition. The concerns here relate to the children's cleanliness and, more importantly, their safety.

Because grounds for termination exist, termination is in the best interests of the children, and no factor in section 232.116(3) precludes termination, we affirm the termination of both parents' parental rights.

AFFIRMED ON BOTH APPEALS.