

**IN THE COURT OF APPEALS OF IOWA**

No. 7-563 / 07-1044  
Filed September 19, 2007

**IN THE INTEREST OF D.R., J.R., A.R., AND K.A.,  
Minor Children,**

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

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Appeal from the Iowa District Court for Iowa County, Russell G. Keast,  
District Associate Judge.

A mother appeals the juvenile court order terminating her parental rights.

**AFFIRMED.**

Deborah M. Skelton, Walford, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Lewis McMeen, County Attorney, and Tim D. McMeen,  
Assistant County Attorney, for appellee State.

Kandyce Smolik, Marengo, for father of D.R., J.R., and A.R.

Dennis Mathahs, Marengo, for father of K.A.

Sara Smith of Nidey, Peterson, Erdahl & Tindahl, P.L.C., Cedar Rapids,  
guardian ad litem for minor children.

Considered by Zimmer, P.J., and Eisenhauer, J., and Robinson, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

**ROBINSON, S.J.****I. Background Facts & Proceedings**

Stephanie is the mother of Desiree, born in 2000, Justice, born in 2002, Andre, born in 2004, and Kaydence, born in 2005.<sup>1</sup> Donald is the father of Desiree, Justice and Andre. Dejuan is the father of Kaydence. In August 2005, the State filed a petition seeking to have the children adjudicated to be in need of assistance (CINA) because Stephanie had left the children unattended in a car several times.<sup>2</sup>

In September 2005, while the petition was pending, Stephanie drove, with the children in the car, more than 100 miles per hour on gravel roads in an attempt to elude police officers because she was driving without a license. Stephanie was charged with child endangerment and eluding. The children were placed in foster care. A combined adjudicatory/dispositional order was filed on November 30, 2005, finding the children were CINA under Iowa Code section 232.2(6)(c)(2) (2005).

Stephanie and Donald had a tumultuous relationship, separating and reuniting several times. Stephanie was inconsistent in attending services. She did not obtain a court-ordered psychological evaluation. During supervised visits, social workers frequently had to intervene due to safety concerns because Stephanie did not adequately supervise the children. At one point Andre fell in a swimming pool, and had to be rescued by a social worker.

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<sup>1</sup> The parental rights of Donald and Dejuan were terminated as to these children, and neither of the fathers has appealed the termination.

<sup>2</sup> Stephanie and Donald have been involved with the Iowa Department of Human Services since 2001. Desiree and Justice had previously been placed in foster care due to improper supervision by the parents.

In August 2006, the State filed a petition seeking to terminate the parental rights of Stephanie, Donald, and Dejuan. Also, in August 2006, Stephanie filed an application seeking to modify prior dispositional orders to place the children with her close friends, Beverly and Benjamin. Beverly and Benjamin expressed an interest in having all four children placed in their care.

In September 2006, Stephanie was convicted of child endangerment. She was given a suspended sentence and placed on two years probation. In addition, an earlier probation for forgery and third-degree burglary was revoked. As a result, she was sentenced to jail for thirty days.

On June 13, 2007, the juvenile court entered an order terminating the parents' rights. The juvenile court terminated Stephanie's parental rights under sections 232.116(1)(f) (Desiree and Justice), and (h) (Andre and Kaydence). The court concluded termination of Stephanie's parental rights was in the children's best interests. In a separate order entered on the same date, the juvenile court determined the children should not be placed in the guardianship of Beverly and Benjamin. The court found "removing the children from a long-term place of stability and emotional investment would be drastically disruptive for them." Stephanie appeals the juvenile court's orders entered on June 13, 2007.

## **II. Standard of Review**

The scope of review in termination cases is *de novo*. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). Grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). In other juvenile court proceedings, our review is also *de novo*. *In re K.N.*, 625 N.W.2d

731, 733 (Iowa 2001). Our primary concern is the best interests of the children. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

### **III. Merits**

**A.** Stephanie claims the State did not present sufficient evidence to show the children could not be safely returned to her care, which is an element of sections 232.116(1)(f) and (h). Stephanie asserts the children would not be at any risk of harm if placed in her care. On our de novo review of the evidence we find, to the contrary, that the children could not be safely placed with Stephanie. Although she has received services designed to improve her parenting skills for several years, she is still not able to adequately supervise the children. We determine there is clear and convincing evidence in the record to support the juvenile court's decision.

**B.** Stephanie contends termination of her parental rights would not be in the children's best interests. In considering a child's best interests, we look to the child's long-range as well as immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). We consider the parent's past performance because it is an indication of the quality of care the parent is capable of providing in the future. *Id.* Stephanie's past conduct, especially that leading to the child endangerment conviction, shows she acts in her own interests, and not in the best interests of the children. We conclude termination of Stephanie's parental rights is in the children's best interests.

**C.** Stephanie asserts the juvenile court should have granted her request to have the children placed in the guardianship of Beverly and Benjamin.

At the time of the hearing, Desiree and Justice were in one foster home, while Andre and Kaydence were in another foster home. Stephanie claims it would be in the children's best interests to all be placed together with Beverly and Benjamin.

The juvenile court carefully considered Stephanie's request and rejected it. The court noted the children have daily contact at day care, and the foster parents plan activities where all four children are together. The court determined it would be traumatic to the children to move them from their current placements, and it would not be in their best interests to be placed with Beverly and Benjamin. We concur in the juvenile court's decision. The children are bonded with their foster parents and still have the opportunity to see their siblings often. We conclude it would not be in their best interests to place them in the guardianship of Beverly and Benjamin.

We affirm the decisions of the juvenile court.

**AFFIRMED.**