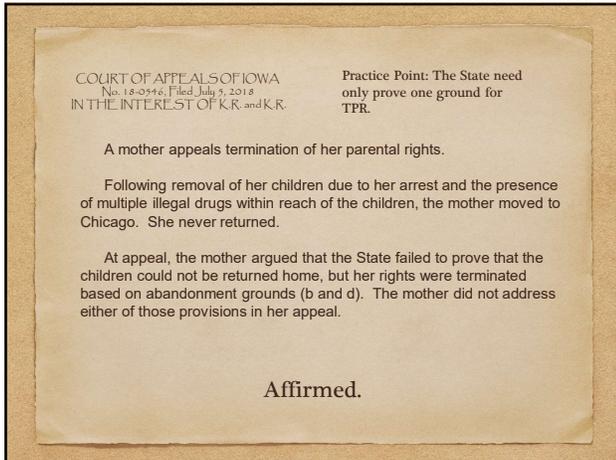
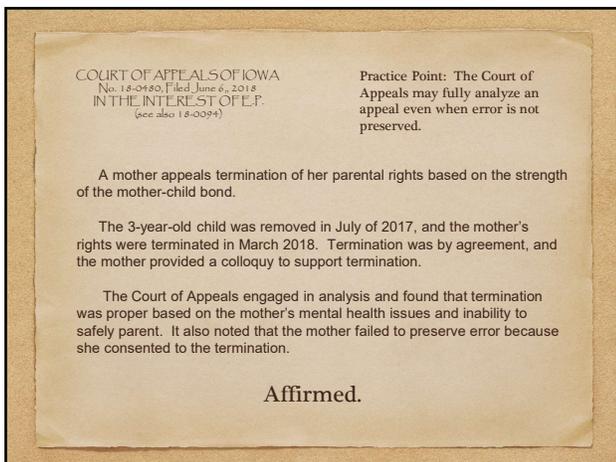




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COURT OF APPEALS OF IOWA
No. 18-1345, Filed October 10, 2018
IN THE INTEREST OF RW.

Practice Point: The Court may analyze a waived issue, but might not reverse based on it.

Parents appealed termination of parental rights. At the time of removal, the mother absconded with the child and then failed to attend visits consistently. She agreed to placement of the child out of state. The mother requested visitation, but DHS could not find providers who would cross into Minnesota. At one point both parents resided in Minnesota, but DHS did not identify providers for visitation. Neither the child's placement nor the maternal grandmother who lived in MN were approved to supervise – the latter because (among other things) said she was going to be a licensed foster home but never completed the process.

At trial the parents challenged reasonable efforts due to the lack of any visitation; however, they failed to preserve since they did not raise the issue prior to TPR.

Affirmed.

4

COURT OF APPEALS OF IOWA
No. 18-0992, Filed June 6, 2018
IN THE INTEREST OF CR.

Practice Point: The court may not consider or even analyze issues not raised and supported.

A father appealed termination of his parental rights. He was incarcerated throughout the process.

Following removal the father submitted a letter stating that he would not be attending court and wanted nothing to do with the child. He told service providers the same thing. Between removal in July and the filing of the TPR petition in December, the father took no part. In December he requested change of placement to his mother, who is a licensed foster home. His parental rights were terminated in March during a hearing held concurrently with the permanency hearing.

The father argued on appeal that combining the TPR and the permanency hearing violated his right to due process since it effectively removed from consideration the possibility of a six-month continuance. Since this issue was not raised at trial and no legal authority was presented, it was deemed waived.

Affirmed.

5

COURT OF APPEALS OF IOWA
No. 17-1688, Filed March 7, 2018
IN THE INTEREST OF RW.

Practice Point: Even the most basic reasonable effort must be raised prior to TPR.

A mother appeals termination of her parental rights. A prior termination was reversed when the hearing was limited to two hours total time, and that was a violation of the mother's right to due process. This is the mother who was found in a parking lot not knowing where her two-year-old was. She had made some progress prior to the first TPR trial, but after the TPR was reversed she did not re-engage with services.

The mother challenges reasonable efforts because visitation did not recommence after the prior TPR was reversed; however, the mother did not request that additional service until TPR.

Affirmed.

6

COURT OF APPEALS OF IOWA
No. 18-0961, August 1, 2018
IN THE INTEREST OF R.E.

Practice Point: Emergency jurisdiction can become permanent jurisdiction.

Parents appeal termination of their parental rights.

The parents were driving from Missouri to Minnesota when the mother went into labor. A baby was born in Mason City and removed due to the presence of methamphetamine in his system. The parents attended court proceedings but did not contact DHS for services nor engage in any services including visitations. The parents failed to provide a conclusive address to DHS or the court and at some points were residing in an Iowa extended-stay hotel.

The State of Iowa took jurisdiction of the baby on an emergency basis, but its emergency order is merely a temporary order and "future CINA or termination orders cannot be based only on temporary emergency jurisdiction. Here the baby's home state was based on its foster placement because there was no other domiciliary offered.

Affirmed.

7

COURT OF APPEALS OF IOWA
No. 18-0866, Filed October 10, 2018
IN THE INTEREST OF J.C.

Practice Point: Iowa may have jurisdiction whether or not the child has resided here for the past six months.

A mother appealed termination of her parental rights based on a jurisdictional challenge. The child was removed due to mother's meth use. The child was placed with family in Iowa, but the father lived in Texas and the mother moved to Texas following adjudication. Following a home study, the child was placed with the father but was then removed due to the father's incarceration. After an expedited home study, the child was placed with an aunt in Texas who was later appointed "sole managing conservator" in Texas. The mother's rights were terminated in Iowa to facilitate adoption by the Texas aunt.

Past cases have established that CINA and TPR's are distinct WRT jurisdiction when a CINA-like case is filed in another state and then the child is found in Iowa at the time of TPR. However, ICPC provides that jurisdiction remains with the sending state "as if the child had remained in the sending agency's state", so Iowa can tpr a child found in another state as well.

Affirmed.

8

COURT OF APPEALS OF IOWA
No. 18-0656, Filed July 5, 2018
IN THE INTEREST OF E.F.

Practice Point: Service may be dispensed with for unknown parties or those for whom whereabouts are unknown.

A mother appeals termination of her parental rights.

During the course of the CINA case the mother made several unsuccessful attempts at inpatient treatment and experienced repeated relapses. At the time of TPR the mother's whereabouts were unknown. The State provided a diligent search affidavit, and the court waived notice as to the mother.

The mother was present at the permanency hearing when the TPR was scheduled and announced on the record, but the Petition had not been filed. A State investigator had spoken with the mother on several occasions and made arrangements to deliver the Petition, but the mother did not show up.

Affirmed.

9

SUPREME COURT OF IOWA
 No. 18-0997, Filed Nov 30, 2018
 IN THE INTEREST OF MD, et al.

Practice Point: Incarcerated parents must have the opportunity to participate by phone in the entire TPR hearing.

Further review of a decision from earlier in 2018.
 A mother appealed termination of her parental rights. She was a long-time meth manufacturer and user, and her children had been in the care of their respective fathers at the time of the termination hearing. The mother was incarcerated, and she provided testimony at the hearing by phone. She was not present for any other part of the hearing, but she was represented by counsel.
 Termination of parental rights invokes the parent's liberty interest, and due process must be afforded. The mother's right to procedural due process was violated when she was not permitted to be 'present' for the full hearing.

Juvenile Court & Appellate Reversed.

10

COURT OF APPEALS OF IOWA
 No. 18-1090, Filed August 1, 2018
 IN THE INTEREST OF FW.

Practice point: One parent does not have standing to advocate for the other.

Both parents appealed TPR. Their infant was removed soon after birth and after the baby and parents all tested positive for THC. The mother later tested positive for meth and was inconsistent with drug treatment. Neither parent consistently tested, and the father was incarcerated at the time of TPR.
 Rather than advocate for himself at TPR, the father argued that the child should be returned to the mother's care.

Affirmed.

11

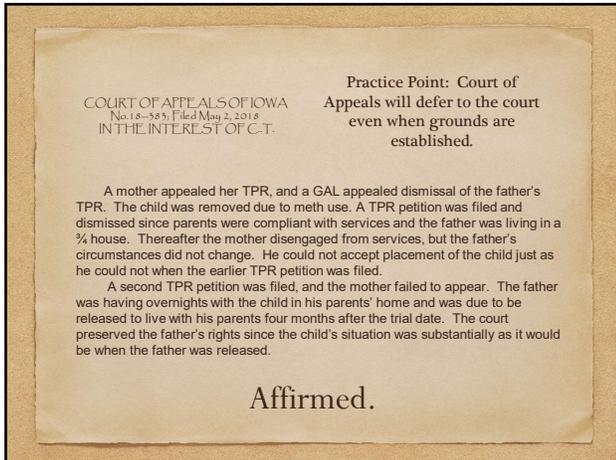
COURT OF APPEALS OF IOWA
 No. 17-1890, Filed Feb 21, 2018
 IN THE INTEREST OF DH/DH & MV.

Practice Point:
 GAL can file TPR. The grounds and etc. are the same.

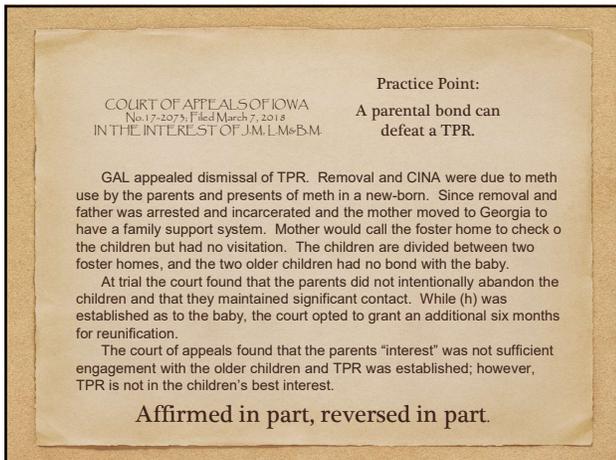
A mother appealed termination of her parental rights. The children were removed when long-term sexual abuse by the father was discovered. The mother was aware of the abuse but had told the victim that the father had an illness and the child should "let it go". The mother was convicted of neglect and child endangerment, and a protection order kept the children and mother from having contact.
 The GAL filed the TPR petition, and at the time of TPR the mother was attending therapy but had not accepted responsibility for her own role in her child's abuse. The children could not be returned to her care. The mother raised several reasonable-efforts arguments at TPR but they were waived since the proper time had passed.

Affirmed.

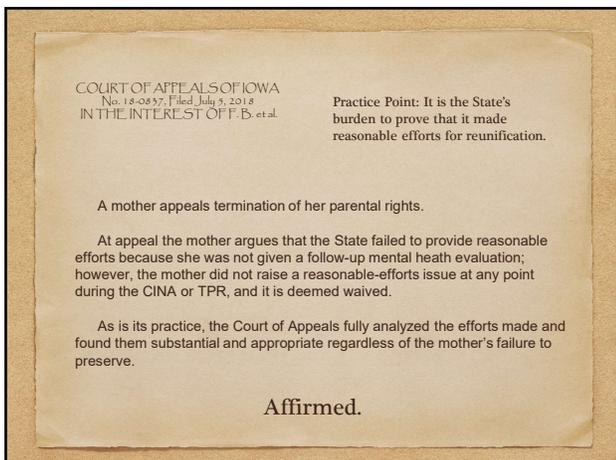
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COURT OF APPEALS OF IOWA
 No. 18-1159, Filed Sept 12, 2018
 IN THE INTEREST OF MM

Practice Point: Failure to place with family is not sufficient to prove a reasonable efforts failure.

A mother appeals termination of her parental rights.

At removal the child was placed in foster care instead of with a maternal aunt. The caseworker and the aunt had prior altercations, and they were unable to "interact constructively". The mother argues, among other things, that the State did not make reasonable efforts to reunify because it did not place the child with a family member.

The Court did not rule not base its ruling on the foster placement but instead referred to the multitude of services the mother received and failed to utilize. HELD family placement would not have made a difference.

Affirmed.

16

SUPREME COURT OF IOWA
 No. 18-1177, Filed Sept 12, 2018
 IN THE INTEREST OF J.B., M.S. & A.S.

Practice Point:
If there is no reason to separate siblings, then they should be together.

The intervenors are adoptive parents of two children whose three siblings were removed from their parents, who were TPRed. The intervenors had a total of six children and had no capacity for additional foster children; however, the court recognized them as family members by virtue of adopting the siblings. They facilitated sibling visits and assisted with medical appointments and transportation for the three siblings.

The three were placed in three separate foster homes due to behaviors of the older two siblings and a bond between the youngest sibling and the foster placement. The intervenors requested placement of all of the children and asked what could be done to facilitate placement, and DHS told them that nothing could be done. There were no concerns raised about the intervenors or their home except that DHS thought it would be too many children. There was also a suggestion that they wanted to increase their foster care stipend. The intervenors testified that they had the means to raise the three additional siblings without the stipend.

Reversed.

17

COURT OF APPEALS OF IOWA
 No. 18-1167, Filed Sept 12, 2018
 IN THE INTEREST OF E.C.

Practice Point: Losing sibling co-placement is not adjudicatory harm.

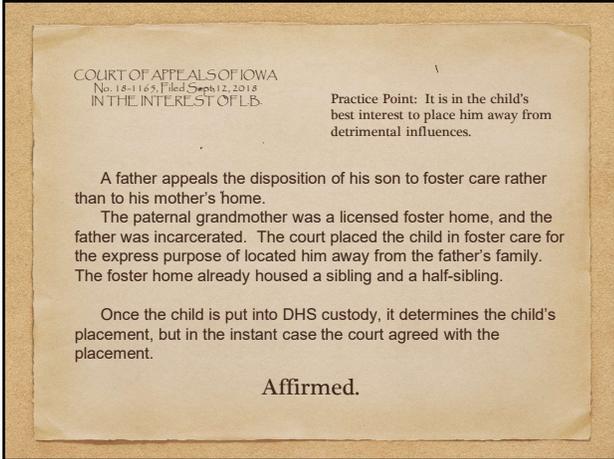
A father appealed termination of his parental rights.

Two children were removed from a mother, one of whom was the child of the father. He and the mother had a brief relationship during the CINA, but they broke up. The mother did not comply with services, but there were no recommendations for the father. When asked to leave the home of his girlfriend, he did. The Plan was for both children to be transitioned to the father. He had a visits with both children although his relationship was stronger with his own child. "[the father] is not bonded to JL and will focus attention on EC." "His lack of bond with JL is a huge concern." After taking the children out of the county during a visit, his visits were discontinued.

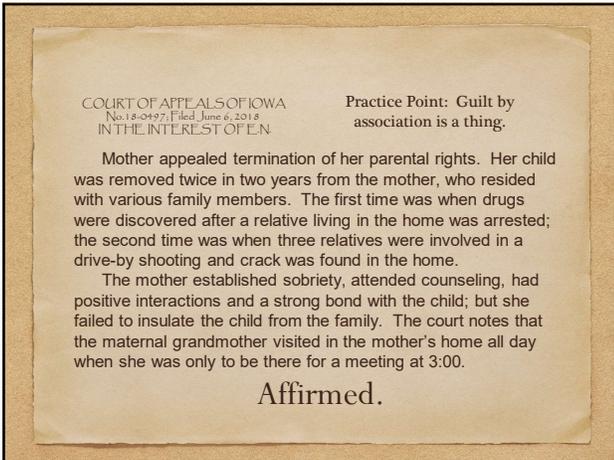
The father's rights were terminated based on several grounds, but the only potentially valid one was (h) with the "cannot be returned" apparently satisfied because the two children would be separated.

Reversed.

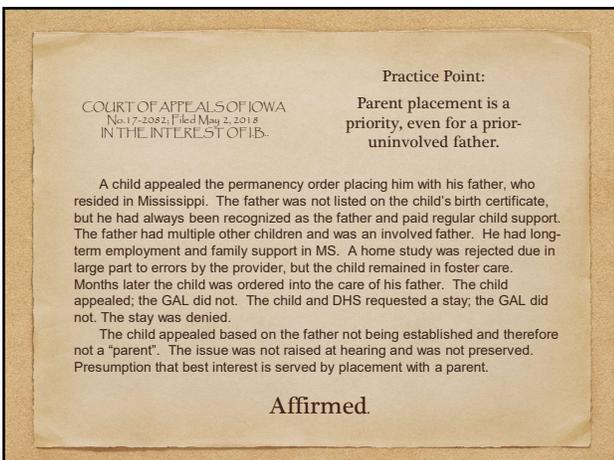
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COURT OF APPEALS OF IOWA
No. 18-0228; Filed June 6, 2018
IN THE INTEREST OF A.P.

Practice Point: The juvenile court can appoint guardians, but it cannot control placement of the child.

Intervenor appealed from denial of a motion to change placement after the court directed DHS to place a child with a specific foster family. The father's stepbrother moved to intervene prior to the father's TPR, and it was heard at the time of the TPR trial. Intervention was granted, and DHS advocated for placement with the intervenors. In the TPR order the court ordered that guardianship be with DHS and that the child remain in foster care. The intervenors were later dismissed. Jurisdiction is retained for appeal for matter following TPR. The intervenors have standing since they had a right to be considered as guardians and custodians. The intervenors had also asked to be appointed guardians. The decision not to appoint them is supported by evidence that they manipulated findings and unfairly maligned the foster parents.

Affirmed in part and vacated in part

22

COURT OF APPEALS OF IOWA
No. 18-1590; Filed Nov 7, 2018
IN THE INTEREST OF T.J.M.

Practice Point: DHS decides placement as long as it acts reasonably.

Intervenor appeal change of guardianship from DHS to other relatives. Two children were placed with two different relatives due to the medical needs of one: she could not be exposed to pet dander, and separation would ensure that she receive special care and attention. Once the medical concerns were under control, DHS started to transition T.J.M. to her sister's home with their aunt. The uncle caring for T.J.M. filed to intervene and have DHS removed as guardian to avoid its placement decision. The aunt also moved to intervene and requested immediate placement of T.J.M. DHS must act reasonably and in the child's best interest. It has a mandate to place siblings together if possible, and it acted on that mandate. The juvenile court based its decision on the fact that the uncle "had been led to believe" that T.J.M. would remain with him, but that did not give him any sort of priority over the aunt.

Reversed.

23

COURT OF APPEALS OF IOWA
No. 18-1000; Filed August 1, 2018
IN THE INTEREST OF M.W.

Practice Point: Risk of harm is not necessary to defeat placement.

A father appeals a permanency order transferring guardianship and custody to a maternal aunt. He had alternating weekend visitation prior to CINA, but when the child was removed from the mother due to meth use the child was placed with the aunt. The father asked for placement, but the child was returned to the mother. Reunification failed, and the child went back to the aunt. A plan to transition the child to the father failed when he declined his first week of care. He did not participate in therapy and later refused to take a drug test. The plan was simple: take drug tests when requested, exercise visits, participate in Family Therapy." He did not comply.

Affirmed.

24

COURT OF APPEALS OF IOWA
 No. 18-0085, Filed April 4, 2018
 IN THE INTEREST OF SM.

Practice Point: Risk of harm is not necessary to TPR under part (g).

A father appealed termination of his parental rights. The child was removed from the mother due to her drug use and associated with a known sex offender. DNA testing established the father, and he received two continuances of TPR as he engaged in services. In the end, he did not successfully reunite because he (i) did not consistently engage with the child, (ii) sometimes was not where he said he would be during visits, (iii) drove unlicensed with the child, and (iv) was not honest about a job loss.

The father's parental rights to two other children had been terminated, and the court found that he was "unwilling to respond to services that would correct the situation".

Affirmed.

25

COURT OF APPEALS OF IOWA
 No. 18-0238, Filed June 6, 2018
 IN THE INTEREST OF JS & KS.

Practice point: Children who are not victims may be adjudicated CINA.

Parents appealed CINA adjudication based on a DHS determination of sexual abuse perpetrated by the father on an older half-sibling of the subject children. The parents resisted adjudication because they were complying with a DHS safety plan; however, the father refused "to admit" that he had molested the half-sibling since his criminal charges were pending. He further identified limitations to treatment since he was unwilling to make any admissions. The State argued that treatment for the family was a necessary component, and the father was "unable" to participate in necessary services.

The Court found that there was risk of grooming of the younger children without recommended services and treatment.

Affirmed.

26

COURT OF APPEALS OF IOWA
 No. 18-0255, Filed June 6, 2018
 IN THE INTEREST OF DR & AW.

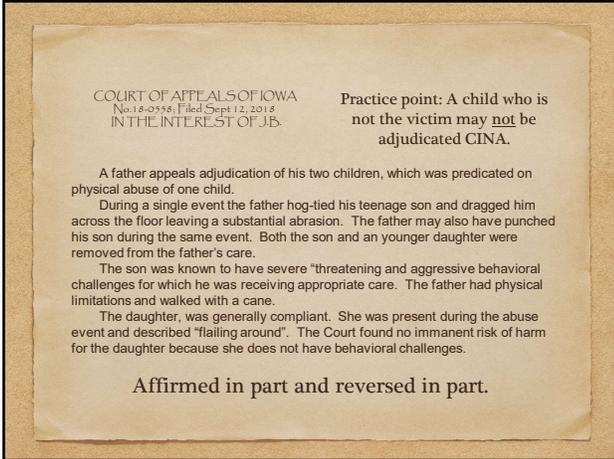
Practice Point: A child who is not a victim may be adjudicated CINA.

A mother appeals from CINA adjudication of her younger daughter based on her husband's molestation of her older daughter, the husband's step-daughter. The mother did not challenge adjudication of the older daughter, who was removed from the home. The younger daughter remained throughout.

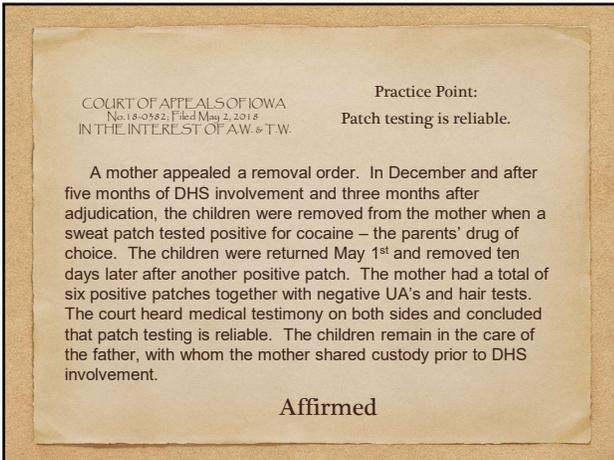
The Court affirmed based on the mother's failure to respond immediately and appropriately to suspicions of sexual abuse including a medical diagnosis. HELD that the younger child was likely to "suffer harmful effects".

Affirmed.

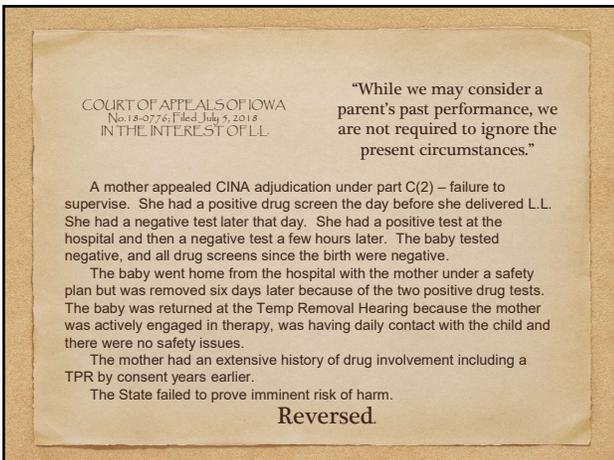
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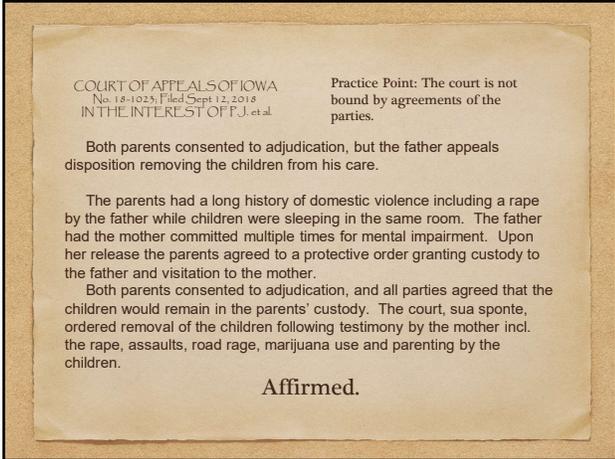
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