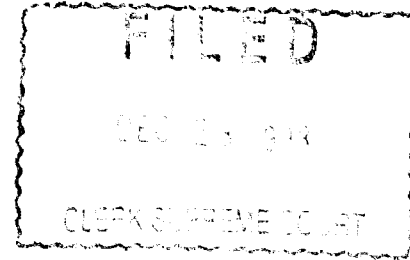


IN THE COURT OF APPEALS OF IOWA

No. 8-606 / 98-898
Filed December 28, 1998

IN THE INTEREST OF A.C. and J.A.,
Minor Children,

K.A., Father,
Appellant.



Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Associate Juvenile Judge.

On appeal from the juvenile court order terminating his parental rights, the father argues the Department of Human Services failed to make reasonable efforts to place the children with his family members. **AFFIRMED.**

Don E. Gottschalk, Cedar Falls, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, and Steven J. Halbach, Assistant County Attorney, for appellee-State.

Dennis Guernsey, Waterloo, guardian ad litem for minor children.

Considered by Sackett, C.J., and Huitink, Streit, Vogel, and Mahan, JJ.

VOGEL, J.

Trina H. and Ken A. are the parents of Joshua, born June 8, 1993 and Nickolas, born in 1996. Nickolas died when a dresser fell over on him. Ken and Trina never married. Trina has another child, Angel C., born March 5, 1991. Ken appeals the termination of his parental rights arguing the Department of Human Services failed to make reasonable efforts to place the children with his sister and brother-in-law. We affirm.

The Department of Human Services began providing services to this family in February 1996. In July 1996, Joshua and Angel were adjudicated in need of assistance pursuant to Iowa Code sections 232.2(6)(b) and (c)(2) (1995) and removed from Trina's care. After a dispositional hearing in October 1996, the court continued Joshua and Angel in the care and custody of DHS. Ken had visitation only with Joshua because of his alleged abuse of Angel.

On March 12, 1997, the State filed a petition for termination of parental rights. Trina could not be located. On May 23, 1997, Ken was sentenced to two years in prison on a child endangerment charge involving the neglect of Joshua and the death of Nickolas. Thereafter, Ken's sister, Barb Bovy, and her husband, expressed interest in caring for the children. The Bovys were allowed visitation, and were ultimately approved for a foster home license. The Bovys have four children.

At the termination hearing in March 1998, one of Ken's counselor's testified about Ken's continuing difficulties controlling his anger. Barb Bovy testified about

her family's love for and commitment to the children. She also stated she and her husband would be willing to adopt the children if Ken's rights were terminated. The department social worker recommended Ken's rights be terminated. She also believed the children should not be placed with the Bovys because it was unlikely the Bovys could meet the children's special needs.

On May 6, 1998, the court terminated Ken's parental rights to Joshua pursuant to Iowa Code sections 232.116(1)(c), (g), and (m). The court noted Ken did not complete an anger management course and was having difficulty controlling his reactions to adverse testimony during the hearing. The court found he was not an appropriate person to assume custody of the children and the State had proven the grounds for termination by clear and convincing evidence. The court found continuing the children in foster care would not be in their best interests. Regarding placement of the children with the Bovys, the court believed the family loved the children and noted Mr. and Mrs. Bovy were successfully raising their own four children. Nevertheless, the court was not convinced the Bovys would be an appropriate adoptive family for Joshua and Angel, based upon the children's special needs.

We review proceedings to terminate parental rights *de novo*—we review the facts as well as the law and adjudicate parents' rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). Our primary concern in a termination proceeding is the best interests of the child. *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995).

Those best interests are determined by looking at the child's long-range as well as immediate interests. To keep children in temporary or even long-term foster homes is not in their best interests, especially when the children are adoptable. *In re J.L.P.*, 449 N.W.2d 349, 353 (Iowa 1989); *In re T.T.*, 541 N.W.2d 552, 557-58 (Iowa App. 1995).

On appeal Ken argues DHS did not provide reasonable efforts to place the children with the Bovys. He does not challenge any of the grounds for termination of his parental rights. Those grounds are well supported in the record and we affirm. Ken has no legal parental relationship with Trina's daughter, Angel.¹ Consequently, he has no standing to raise any challenge concerning Angel.

Concerning Joshua's placement, we note that guardianship and custody of both children was placed with DHS for suitable adoption placement. "An appropriate determination to terminate a parent-child relationship is not to be countermanded by the ability and willingness of a family relative to take the child. The child's best interests always remain the first consideration." *In re C.K.*, 558 N.W.2d 170, 174 (Iowa 1997). Once Ken's parental rights were terminated, he had no voice in either child's placement. The juvenile court left open the issue of whether the Bovys were a suitable adoptive home. The Bovys testified they were interested in adopting Angel

¹ He does not claim to be Angel's biological father. He did not adopt Angel. He has never been married to Trina.

and Joshua and have taken appropriate steps to that end. Their suitability will be addressed in the adoption proceedings.

AFFIRMED.