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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF W.L.T., A Child;	)	Filed March 31, 1987 420
W.L.J., Natural Father,	)	7-34
Appellant.	)	86-791

Appeal from the Iowa (Juvenile) District Court for Scott County ((T)4829-1285) - John A. Nahra, Associate Judge.

The natural father of a four-year-old boy appeals from the juvenile court order terminating his parental rights pursuant to Iowa Code sections 232.116(2) and 232.116(5). **AFFIRMED.**

Michael T. Hines of McCarthy & Hines, Davenport, Iowa, for appellant.

Thomas J. Miller, Attorney General of Iowa; Gordon E. Allen, Special Assistant Attorney General; Charles K. Phillips, Assistant Attorney General; and Henry C. Filseth, Assistant Scott County Attorney.

Heard by Oxberger, C.J., Schlegel, and Hayden, JJ.

HAYDEN, J.

W.L.T., the child who is the subject of this appeal, was conceived in the early months of 1982. At that time appellant, W.L.J., and the natural mother, Patricia, were living together in Davenport, Iowa. Approximately six or seven months into Patricia's pregnancy, the parties had an argument and appellant left the state. On December 9, 1982, W.L.T. was born; appellant had not been heard from for approximately two months. When W.L.T. was approximately sixteen months old appellant began to live with Patricia again. This relationship ended early in July 1984 after two months and Patricia left Iowa to work elsewhere. Prior to leaving the State she took W.L.T. to appellant's residence, where he stayed for two days, until Patricia's sister picked him up. Once the child was gone appellant left Iowa and did not return until the fall of 1984.

On July 3, 1984, a petition was filed alleging W.L.T. was a child in need of assistance pursuant to sections 232.2(5)(b) and 232.5(c)(2) of the Iowa Code (1983). On September 27, 1984, legal custody of W.L.T. was placed with the Scott County Department of Human Services for special care and treatment outside of the home. He was placed in foster care on July 2, 1984, and has remained there since that time.

The original termination petition was filed on December 13, 1985, and listed W.L.T.'s father as unknown. This petition was amended on January 30, 1986, to provide that appellant, W.L.J., was W.L.T.'s natural father. In an order filed May 8, 1986, the juvenile court terminated both Patricia's and W.L.J.'s parental rights pursuant to sections 232.116(2) and 232.116(5), Iowa Code (1985). From this decision W.L.J. has appealed.

On appeal, he contends the trial court erred in finding the child had been abandoned by its natural father within the meaning of section 232.116(2).

Specifically he contends the state failed to meet its burden of showing by clear and convincing evidence that W.L.J. intended, at any time, to forego his parental rights.

Our review of parent-child terminations is de novo. In re Interest of K.L.G., 372 N.W.2d 223, 227 (Iowa 1985). It is our duty to review the facts as well as the law and adjudicate rights anew on those propositions properly preserved and presented to us. In re Interest of W.G., 349 N.W.2d 487, 491 (Iowa 1984), cert. denied, 469 U.S. 1222, 105 S. Ct.. 1212, 84 L. Ed. 2d 353 (1985).

Iowa Code (1987) section 232.116(2) permits termination if:

> 2. The court finds that there is clear and convincing evidence that the child has been abandoned.

Section 232.2(1) (1987) defines abandonment as follows:

> 1. **"Abandonment of a child"** means the permanent relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

"Abandonment involves a giving up of parental rights and responsibilities accompanied by an intent to forego them." In re Interest of Chad, 318 N.W.2d 213, 219 (Iowa 1982) (quoting In re Barney, 259 N.W.2d 322, 324 (Iowa 1977)). It does not require total desertion before abandonment will be found. In re Interest of Goettsche, 311 N.W.2d 104, 105 (Iowa 1981). Parental responsibilities involve more than subjectively maintaining an interest in the child; it requires affirmative parenting to the extent it is practical and feasible under the circumstances. Id. at 106.

In considering termination proceedings, our decision is controlled by the best interests of the children. In re Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981). There is a presumption that the best interests of the children will be served by continued parental supervision, but this presumption is not conclusive. In re Interest of T.D.C., 336 N.W.2d 738, 740 (Iowa 1983). It must also be remembered that the State, as parens patriae, has a duty to assure that every child in this state receives proper care and treatment. Dameron, 306 N.W.2d at 745. The State must intercede when the natural parents neglect their duties. Id. We also recognize that in considering the future prospects for the children, if returned to the parents, we may consider evidence of the parents' past performance, for that performance may be indicative of the quality of future care. In re Interest of M.A., 367 N.W.2d 275, 278 (Iowa Ct. App. 1985).

We determine appellant gave up his parental rights and responsibilities as they related to W.L.T. Initially he abandoned Patricia while she was pregnant and she delivered the baby by herself. He then returned when the child was almost one and one-half years old. His total involvement with the child, who is presently four years old, has encompassed a little over two months, approximately one-twenty-fourth of W.L.T.'s life. He has contributed approximately $200 in the four-year period to W.L.T.'s support. From the fall of 1984 to the hearing in March of 1986, appellant continuously lived in Davenport, but his only attempts to find W.L.T. was a trip to the county attorney's office and asking a few friends. We find appellant has not only abandoned W.L.T., he has deserted him. Appellant abdicated his parental duties. He knew of W.L.T.'s existence and failed to participate in the active parenting which the parent-child relationship requires.

The crux of appellant's appeal is the State's alleged failure to show his intent to abandon W.L.T. We must consider the party's intent which accompanies the conduct of giving up parental rights. Although appellant contends he never intended to forego parental rights, we conclude the evidence is that through his conduct he intended to relinquish his parental rights, privileges, and duties. This is the type of case the legislature had in mind when it enacted chapter 232 of the Code. We find from the record this appeal is an attempt by appellant to reunite his "family." The best interest of W.L.T. would be served through his continued foster care at this time.

In the later portion of his brief appellant attempts to raise the argument that the trial court failed its burden regarding section 232.116(5). This issue was not presented in the statement of issues presented for review and has no legal citation supporting it. "Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed a waiver of that issue." Iowa R. App. P. 14(a)(3). Appellant has waived this argument, therefore we do not address it.

AFFIRMED.