FILED
APR 25 1989
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF )
J.M.M., A Child. )
)
D.M., )
)
Appellant.

8-726 242
88-1399

---

Appeal from the Iowa District Court for Scott County (No. J(T)3914-0488), John G. Mullen, District Associate Judge.

The father of a child appeals from the juvenile court order terminating his parental rights. **AFFIRMED.**

Bobbi M. Alpers, Davenport, for appellant father.

Thomas J. Miller, Attorney General; Kathrine S. Miller-Todd, Assistant Attorney General; and Gerda C. Lane, Assistant Scott County Attorney, for appellee State.

Gary A. McKenrick of Gomez, May, McKenrick & Kelly, Davenport, guardian ad litem, for the child.

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

HABHAB, J. 243

The natural father of J.M.M. appeals the termination of his parental rights. He contends there was not clear and convincing evidence that his son could not be returned to his custody. We find the father's argument without merit and accordingly affirm the decision of the juvenile court.

Appellate review of these proceedings is de novo. In re Interest of W.G., 349 N.W.2d 487, 491 (Iowa 1984). We give weight to the juvenile court's findings of fact, especially when considering the credibility of witnesses whom the court had the opportunity to observe. Id. at 491-92. However, we are not bound by those determinations. Id.

J.M.M. was born on September 17, 1979. His mother, S.H., abandoned him during June of 1980. She has had no contact with him since that time. The juvenile court terminated her parental rights pursuant to Iowa Code sections 232.116(1)(e) and 232.117. She has not appealed.

J.M.M. was adjudicated a child in need of assistance on December 23, 1982, as defined in Iowa Code section 232.2(5)(b) (1981). He was placed in foster care in February of 1985. Since that time he has resided outside the family home with the exception of two months in 1987.

Parental rights may be terminated under Iowa Code section 232.116(1)(e) if the court finds that (1) the child

has been adjudicated a child in need of assistance, (2) that custody of the child has been transferred from the child's parents to the Department of Human Services for at least twelve of the last eighteen months, and (3) that there is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in Iowa Code section 232.102. The father, D.M., only raises issue as to the third requirement.

We find there is clear and convincing evidence that J.M.M. cannot be returned to his father's custody because D.M. has abdicated all parental responsibility concerning his son to other adults for the majority of his son's life. The majority of the evidence supports the fact that J.M.M. has suffered much due to his father's lack of involvement with him.

Beverly Saboe, a nurse at the Child Development Clinic affiliated with the University of Iowa, testified that J.M.M. was diagnosed as suffering from an "adjustment disorder with mixed disturbance of emotion and conduct, average verbal and intellectual ability, alteration in parenting, and child maltreatment syndrome." She stated that parenting, physical abuse, denial of critical care, and emotional abuse contributed significantly to J.M.M.'s difficulties. Regarding the emotional abuse J.M.M. has suffered because of his father's neglect, Ms. Saboe testified that J.M.M. had never received "structure,

routine, and consistency of expectations in a nurturing, caring environment." She stated that such needs are absolute. Four other expert witnesses, while not employing the same language, concurred and recommended that parental rights be terminated.

D.M. argues that he has changed significantly since the Department of Human Services intervened. He states he no longer relies upon corporal punishment to discipline J.M.M. and that he had good reasons for failing to administer medication prescribed for J.M.M. and failing to seek medical attention. We commend D.M. only insofar as he no longer physically restrains his child in order to control him. However, we find his failure to seek medical care for J.M.M. and to follow a doctor's directions once that care is secured to be neglectful.

D.M. also asserts that he is now eager to accept responsibility for his child and that he was in error when he relinquished this responsibility to other adults. Those people affiliated with the Department of Human Services and the University of Iowa were not convinced by this eleventh-hour effort, especially in view of the fact that D.M. has had six years to act. Neither are we.

Past behavior is an important factor to be considered in terminating parental rights. In re M.H., 367 N.W.2d 275, 278 (Iowa App. 1985). A determination as to what the future holds for a child if that child is once again placed

in the family home can be made by assessing the parent's past performance. In the Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981). Past behavior may be indicative of the quality of future care that parent is capable of providing. Id.

The experts' assessment of D.M.'s relationship with his son is scathing. All five witnesses characterize the relationship as harmful and destructive. D.M. has failed to exhibit any real commitment to his son. Even more egregious is the fact that D.M. blames his son for these difficulties.

We, therefore, agree with the findings of the juvenile court that D.M. has exhibited no palpable change in his behavior towards his son and that J.M.M. would suffer more abuse and harm if returned to his care and custody. Accordingly, we affirm.

**AFFIRMED.**