IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 1-052 / 00-0780
Filed February 28, 2001

IN THE INTEREST OF D.G. and K.G., Minor Children,

D.G., Father,
Appellant.

Appeal from the Iowa District Court for Muscatine County, John G. Mullen, District Associate Judge.

Father appeals from the juvenile court order terminating his parental rights. **AFFIRMED.**

Thomas G. Reidel of Conway & Reidel Law Offices, Muscatine, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Teresa Stoeckel, Assistant County Attorney, for appellee-State.

Esther J. Dean, Muscatine, for minor children.

Considered by Huitink, P.J., and Vogel and Mahan, JJ.

PER CURIAM

A father appeals the decision of the district court which terminated his parental rights to his children. He claims termination was not in the children's best interests, the State did not engage in reasonable efforts to reunite him with the children, and the State did not present sufficient evidence to warrant termination of his parental rights. We affirm on appeal.

Dan and Lisa are the parents of four children. This appeal involves only the two youngest children, Kelsey, born in July 1989, and Ethan, born in February 1993.

The family became involved with the Department of Human Services (DHS) in 1994, after a report Lisa had physically abused Kelsey. The children were adjudicated to be children in need of assistance (CINA). They were placed in foster case in November 1996. Lisa was sent to prison in 1997. In July 1997, Dan became involved with services. In August 1998, the children were placed in Dan's care. The CINA case was dismissed in January 1999.

In February 1999, Dan gave the children to Lisa, who was then out of prison. Dan stated he could no longer handle the children. Lisa and the children became homeless in March 1999. Dan refused to allow Lisa and the children to live in his apartment, even though he spent most of his time in the apartment of his wife, Anita. Dan told a social worker he had no intention of having the children live with him in the near future. He refused to participate in services.

In August 1999, the children were again adjudicated to be CINA. The children were placed in foster care in September 1999 because Lisa was unable

to supervise the children. The court found Dan had not shown an active interest in receiving services or acting as a custodian of the children. The court relieved DHS of the obligation to provide services to him. He was granted one hour of supervised visitation per week.

Dan has a history of mental health problems. He has been diagnosed with an anxiety disorder and an intermittent explosive disorder. He does not always take prescribed medication for his condition. Dan has an unstable relationship with Anita; they separated four times within one year.

The juvenile court entered a permanency order in December 1999, which determined a termination petition should be filed in regard to Kelsey and Ethan.[1] In March 2000, the State filed a petition to terminate the parents' rights to these children.

The juvenile court terminated Dan's parental rights to Kelsey and Ethan under Iowa Code sections 232.116(1)(c) and (d). The court noted in the past Dan had refused for significant periods of time to be a parent to the children. The court found:

> The children need permanency and the father at times is unwilling or unable to provide permanency for them. The children cannot afford to wait any longer for the father to decide when and under what circumstances he will parent.

Lisa's parental rights were also terminated. Dan appeals.

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[1] The juvenile court determined due to their ages, the two oldest children would not benefit from a termination of parental rights. These children were placed in long-term foster care.

I. Scope of Review

The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Our primary concern is the best interests of the children. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. Best Interests

Dan asserts termination of his parental rights is not in the best interests of Kelsey and Ethan. He points out he was able to successfully care for the children from August 1998 until February 1999. The juvenile court noted Dan has competent parenting skills. Dan states if the children were returned to his care they would be together, and would be able to maintain contact with the two older siblings.

Even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the children. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of a child, the court looks to the child's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional condition and needs of the child in deciding to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa Ct. App. 1996).

Termination of Dan's parental rights is in the children's best interests. Ethan has had problems with aggressive behavior. He has continuing problems

with severe constipation and encopresis. A psychological evaluation of Ethan recommended:

> Ethan be placed in a permanency home where he can develop trusting relationships with adults as quickly as possible. Without this secure base, prognosis and response to interventions is guarded.

When returned to foster care Kelsey became defiant. She acted as a bully in school. Both children attend counseling to help them deal with their behaviors. It is clear the children need permanency. Up until the time of the termination hearing, Dan vacillated in his commitment to the children. He expressed conflicting statements about whether he wanted the children returned to his care. His actions did not show any attempt to resume the care of the children. The evidence shows Dan is unable to meet the children's needs, and termination is in their best interests.

III. Sufficiency of the Evidence

Dan contends the State did not present sufficient evidence to warrant termination of his parental rights. Dan's parental rights were terminated under section 232.116(1)(c), which requires a finding, "the parents were offered or received services to correct the circumstances which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services." Dan claims the State did not offer adequate services to him. He states services were not offered to him *in a manner* which would have allowed him to meet his goals. He does not specify how services could have been provided in a different manner.

Reasonable services must be provided to attempt to reunite a family before the State can terminate parental rights. *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1997). While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997).

At the permanency hearing in November 1999, Dan testified he was interested in services to reunite him with the children. However, he never contacted DHS or took any action to participate in services. Dan has not participated in any services since the first CINA action was closed in January 1999. Dan did not object to or appeal the juvenile court's decision in September 1999, relieving DHS of its obligation to provide services to him. Under the circumstances of this case, we find the services offered to Dan were reasonable.

Dan also claims the circumstances which gave rise to the adjudication of the children as CINA no longer exists. The children were adjudicated, in part, because Dan would not give the children a place to live and would not assume care of them. Although at the termination hearing Dan testified he would like to have the children in his care, up until that time he would not make a commitment to caring for the children. Dan told social workers several times he did not think he would be able to care for the children. We conclude the circumstances which gave rise to the CINA adjudication continued to exist at the time of the termination hearing.

IV. Other Code Section

When the juvenile court terminates parental rights on more than one statutory ground, we need only find grounds to terminate under one of the sections cited by the juvenile court to affirm. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996). Because we have determined Dan's parental rights were properly terminated under section 232.116(1)(c), then we need not address his claims regarding section 232.116(1)(d).

We affirm the decision of the juvenile court terminating Dan's parental rights to Kelsey and Ethan.

AFFIRMED.