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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 1999-423 (9-676) / 99-0966
Filed December 13, 1999

IN THE INTEREST OF J.U.B., A.D.B. and K.B.,
Minor Children,

R.B., Father,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, Associate Juvenile Judge.

Father appeals the termination of his parental rights pursuant to two of his minor children. **AFFIRMED.**

Douglas Roehrich, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, Janet L. Hoffman, Assistant Attorney General, and Dewey Sloan, Assistant County Attorney, for appellee-State.

William Binkard, South Sioux City, Nebraska, for mother.

Joseph Kertels of the Juvenile Law Center, Sioux City, for minor children.

Considered by Streit, P.J., and Vaitheswaran, J., and Peterson, S.J.*

*Senior Judge assigned by order pursuant to Iowa Code § 602.9206 (1999).

PETERSON, S.J.

A father appeals the termination of his parental rights to two of his minor children. He claims termination is not in the best interests of the children. We affirm on appeal.

Robert and Tracy are the parents of Jasmine, born in September 1986, and Andrew, born in June 1988. Robert has an extensive history of substance abuse and legal problems. He has been in prison throughout much of the children's lives. Due to his imprisonment he had little contact with the children.

The children first came to the attention of the department of human services (DHS) in July 1990. DHS issued a founded report of denial of critical care because Tracy had been leaving the children home alone. Robert was in prison at the time of this incident.

Robert and Tracy married in 1992, but did not always live together. Their relationship involved domestic violence. DHS issued a second founded report of denial of critical care in July 1993, because Tracy was leaving the children home alone while she went to work. Although he was not in prison at this time, Robert assumed no responsibility to care for the children. After this incident, the children were removed from the home for a short period of time before being returned to Tracy's care. The children were adjudicated to be children in need of assistance pursuant to Iowa Code sections 232.2(6)(a), (b), and (c)(2).

In early 1994, Robert was sent to prison on domestic abuse charges. The children lived in many different homes while Robert was in prison. In June 1994, Tracy left the children in the home of a paternal uncle, Willie. The children were removed from Willie's care in June 1996, due to his criminal activities. The children were again placed with Tracy, who was then living in Nebraska. Due to behavioral problems, Jasmine was placed in foster care from June 1997 until August 1997, when she was returned to Tracy's care. In December 1997, Tracy voluntarily agreed to have Jasmine placed in foster care. Within a few days Andrew was also removed from Tracy's care. He was placed in a separate foster home.

Robert and Tracy divorced. In February 1998, Robert sent a letter to the juvenile court stating he was interested in reuniting with the children. He sent a few letters to the children. Robert was released from prison in June 1998. He was arrested in August 1998 for burglary in the third degree and theft in the first degree. While out of prison, Robert was using crack cocaine and was stealing to support his drug habit. He made no effort to contact the children. Robert was sentenced to concurrent sentences of ten years and five years on the burglary and theft charges.

Jasmine has some behavioral problems resulting from the violence she witnessed between her parents. She has been diagnosed with an oppositional defiant disorder and an attachment disorder. She has been hospitalized twice for her behaviors. Since July 1998, she has been in group homes. Andrew, on the other

hand, has done well in foster care. His present foster mother is interested in adopting him.

In March 1999, the State filed a petition to terminate the parental rights of Robert and Tracy. After the petition was filed, Robert asked DHS to begin visitation with Jasmine, and this request was denied. The juvenile court terminated Robert's parental rights under section 232.116(1)(b). The court found Robert had clearly abdicated his responsibilities for the children. Tracy's parental rights were also terminated. Robert appealed.

I. The scope of review in termination cases is de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa App. 1997). The grounds for termination must be proven by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the children. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. Robert contends termination of his parental rights is not in the children's best interests. He asserts he will be out of jail in about eighteen months and could then assume the care of the children. Robert expresses an interest in developing a relationship with the children.

As noted above, the paramount consideration in parental termination proceedings is the best interests of the children. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). In seeking out those best interests, we look to the children's long-range as well as immediate interests. *J.L.W.*, 570 N.W.2d at 781. This requires considering

what the future holds for the children if returned to the parents. *C.K.*, 558 N.W.2d at 172. When making this decision, we look to the parent's past performance because it may indicate the quality of care the parent is capable of providing in the future. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998).

We determine termination of Robert's parental rights is in the children's best interests in this case. Robert's past shows he is not capable of parenting the children. He has been in prison throughout most of the children's lives. He has not acted as a parent to the children. The children do not know him. The children, especially Jasmine, need a stable home. The children should not be forced to wait any longer for Robert to become a responsible parent.

III. Robert claims the State did not engage in reasonable efforts to reunite him with the children. He states, although DHS knew of his interest in establishing a relationship with the children, it resisted his request for visitation.

Reasonable efforts to reunite parent and child are required prior to the termination of parental rights. *In re M.B.*, 595 N.W.2d 815, 818 (Iowa App. 1999). The reasonable efforts concept would broadly include a visitation arrangement designed to facilitate reunification while protecting the children from the harm responsible for the removal. *In re M.B.*, 553 N.W.2d 343, 345 (Iowa App. 1996). The nature and extent of visitation is controlled by the best interests of the children. *Id.*

Robert did not request visitation until after the petition to terminate his parental rights was filed. Considering he had minimal involvement with DHS throughout the juvenile court proceedings concerning these children, had very minimal contact with the children throughout their whole lives, and had made no effort to have visitation with the children during the short time he was out of jail, the DHS decision regarding visitation was reasonable.

We affirm the decision of the juvenile court which terminated Robert's parental rights to Jasmine and Andrew.

AFFIRMED.