FILED
MAY 31 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF S.H. AND J.H., Children.	)	Filed May 31, 1988
S.H., Natural Mother, and G.H., Natural Father,	)	8-116 / 87-1364
Appellants.	)	

Appeal from the Iowa District (Juvenile) Court for Polk County (7101-15), Larry J. Eisenhauer, Juvenile Referee, and Vincent M. Hanrahan, Judge.

The district court terminated the parental rights of both parents, and both parents have appealed. **AFFIRMED.**

Dominic Corsello of Prine & Corsello, Des Moines, for appellant mother.

Wendell J. Harms of Smith & Harms, Des Moines, for appellant father.

Randall Wilson, guardian ad litem, Des Moines, for the children.

Thomas J. Miller, Attorney General of Iowa, and Charles K. Phillips, Assistant Attorney General, for the appellee State.

Considered by Schlegel, P.J., and Sackett and Habhab, JJ.

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The district court terminated the parental rights of both parents, and both have appealed. The parents contend that the termination petition violated Iowa Code section 232.111(3) because it did not include the domicile of either parent, the residence and domicile of the guardian ad litem, or an explanation for the omissions. We affirm.

The children in question are siblings, a girl born in June 1985 and a boy born in October 1986. In October 1986, both children were removed from the parents' house due to allegations of physical and sexual abuse of the girl and of older siblings and half-siblings. In January 1987, the children were formally adjudicated to be children in need of assistance.

In approximately December 1986, the parents were evicted from their apartment and disappeared. Neither parent has had any contact with either child since October 1986. In July 1987, the State filed a petition to terminate the parental rights of both parents on the ground of abandonment. After a hearing, the juvenile court terminated the parental rights of both parents. Each parent has appealed separately, but both argue the same issue.

The parents contend the State's termination petition was defective because it did not comply with Iowa Code section 232.111(3) (1987). That statute lists the contents of a termination petition in the following language:

> **232.111 Petition.**
>
> 1. A child's guardian or custodian, the department of human services, a juvenile court officer or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child.
>
> 2. The department, juvenile court officer, county attorney or judge may authorize any competent person having knowledge of the circumstances to file a termination petition with the clerk of the court without the payment of a filing fee.

> 3. A petition for termination of parental rights shall include the following:
>
> a. The legal name, age, and domicile, if any, of the child.
>
> b. The names, residences, and domicile of any:
>
> (1) Living parents of the child.
> (2) Guardian of the child.
> (3) Custodian of the child.
> (4) Guardian ad litem of the child.
> (5) Petitioner
> (6) Person standing in the place of the parents of the child.
>
> c. A plain statement of those facts and grounds specified in section 232.116 which indicate that the parent-child relationship should be terminated.
>
> d. A plain statement explaining why the petitioner does not know any of the information required under paragraphs "a" and "b" of this subsection.
>
> e. The signature and verification of the petitioner.

Iowa Code § 232.111 (1987). Specifically, the parents contend that the petition violated subsections 3(b)(1), 3(b)(4), and 3(d), because it failed to include the residence and domicile of the guardian ad litem, the domicile of either parent, or a plain statement explaining why the petitioner does not know the omitted information.

We believe that the petition was in compliance with the requirements of section 232.111. As stated in Iowa Code section 232.112(1), notice to the persons listed in section 232.111(3) may be dispensed with in cases where the persons cannot be located by reasonably diligent search. As evidenced by the juvenile court officer's affidavit, such a diligent search was undertaken and therefore notice was dispensed with. The parents have relied on In re Hewitt, 272 N.W.2d 852 (Iowa 1978), as support for the argument that none of the pleading elements of section 232.111(3) may be omitted or disregarded. The Iowa Supreme Court's decision to reverse a CHINA adjudication due to inadequacies in the petition was based on the lack of proper notice to the

parents. Id. at 855-57. The instant case presents different circumstances than those facing the court in Hewitt. In this case, notice was dispensed with pursuant to Iowa Code section 232.112(1), and therefore Hewitt is not controlling.

A further reason why the petition was in compliance with the requirements for a termination petition is that after stating that the domicile of the mother and father is unknown, the petition states that there is evidence that the children have been abandoned by their parents, and the parents have not made any contact with the children for eight months (from the time the children were placed with the Department of Human Services on October 30, 1986). We believe these statements sufficiently explain why the petitioner does not know the parents' domicile.

Finally, we hold that the petition was not defective regarding the guardian ad litem's residence and domicile. The petition stated the name of the person serving as guardian ad litem up to the filing of the termination proceedings. No guardian ad litem had been appointed for the termination action at the time the petition was filed (the petition requested that the Commissioner of the Iowa Department of Human services be appointed as guardian ad litem for the termination action). We believe this is a sufficient explanation as to why the information about the guardian ad litem is not known. Furthermore, the name of the guardian ad litem in the CHINA action was stated and his residence and domicile was available to the parties from the CHINA file.

We accordingly hold that the petition was in compliance with the Iowa Code requirements, and therefore the termination order should be affirmed.

AFFIRMED.