IN THE COURT OF APPEALS OF IOWA

No. 0-840 / 00-1396
Filed January 10, 2001

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CLERK SUPREME COURT

IN THE INTEREST OF G.S., A.S., and E.S., Minor Children,

G.S., Sr., Father,
Appellant.

Appeal from the Iowa District Court for Wapello County, William S. Owens, District Associate Judge.

A father appeals from a juvenile court order terminating his parental rights.

AFFIRMED.

Kevin S. Maughan of Maughan Law Office, Albia, for appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney General, and Victoria Siegel, County Attorney, for appellee-State.

Jeffrey Logan of Lynch, McKay, Moreland & Webber, P.C., Ottumwa, for minor children.

Mary Baird Krafka of Krafka Law Office, Ottumwa, for custodial maternal grandparents.

Considered by Streit, P.J., and Vogel and Miller, JJ.

MILLER, J.

A father appeals the decision of the juvenile court which terminated his parental rights to his three minor children. He claims the State did not engage in reasonable efforts to reunite him with his children and there is insufficient evidence to warrant termination of his parental rights. We affirm.

Gerald and Rebecca are the parents of Gerald Jr., born in October 1990; Adam, born in August 1993; and Eliza, born in July 1997. The parents were not married. They lived together until 1996. Rebecca claimed Gerald was physically abusive during their relationship and that he used illegal drugs. Gerald did not have much contact with the children after the parents separated.

The family became involved with the Department of Human Services (DHS) in 1997, when Rebecca sought services to assist her with Adam, who was displaying aggressive behavior. Gerald did not participate in these services. In June 1998, Gerald began a fifteen-year sentence on two burglary convictions. He remained in prison throughout the pendency of this case.

In March 1999, the children were removed from Rebecca's care and placed in the care of the maternal grandmother. The children were adjudicated to be children in need of assistance pursuant to Iowa Code section 232.2(6)(c)(2) (1997).

Gerald requested contact with the children through letters and supervised visits. In May 1999, the juvenile court determined Gerald should send correspondence to DHS staff, who would then review it and forward it to the children. The court ruled:

> In light of the children's ages and father's reported lack of substantial involvement with the children prior to his incarceration it would not, however, be in the children's best interest to permit father visitations with the children while he is incarcerated.

Gerald ignored the court's orders by sending cards and letters to the children through family members, instead of through DHS. His actions prevented DHS from reviewing the content of his communications with the children. Gerald also asked family members to bring the children to visits at the prison without DHS knowledge. However, no such visits actually occurred. Gerald threatened to take the children from the maternal grandmother after his release from prison.

In March 2000, the State filed a petition to terminate the parental rights of Gerald and Rebecca. Rebecca voluntarily agreed to the termination of her parental rights. The termination hearing was held in July 2000. At the hearing, Gerald testified his release date was August 2005. He could be released on parole as early as September 2000. Gerald planned to go to a halfway house in Chicago. He testified he could be ready to assume the care of the children about six or eight months after his release on parole. At the end of the termination hearing, in what the juvenile court described as a menacing tone, Gerald stated:

> I'm gonna see my kids, so it don't make no difference what you do. I'm gonna see my kids. Whatever the outcome is, I'll pay the consequences. So you do what you want; it's what I'm saying. I'm gonna see my kids, and I'm not going nowhere. You're not God. You guys don't own my kids. I'm not even gonna comment on it no more 'cause it could get ugly. Let's put it that way.

The juvenile court terminated Gerald's parental rights under sections 232.116(1)(d), (e), and (i). The court noted that even after Gerald is released from prison, it would take many months, and perhaps years, of services before

he could take custody of the children. The court found the children did not have time to wait. Gerald appealed.

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 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 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. Reasonable Efforts

Gerald asserts the State did not engage in reasonable efforts to reunite him with his children. Gerald asked for visitation, but this request was denied by the juvenile court.

Generally, 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 App. 1994). 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 child. *Id.*

We find the State's actions were reasonable under the facts of this case. Gerald had not had much contact with the children since 1996. As the juvenile court noted, there is no strong bond between the children and their father. It would take time to establish that relationship. The juvenile court attempted to start this process, by allowing Gerald to correspond with the children through

DHS. Gerald failed to comply with this requirement and instead tried to circumvent DHS participation. Because Gerald failed to comply with the juvenile court's orders, it was reasonable not to proceed with visitation in this case.

III. Sufficiency of the Evidence

Gerald contends the State did not present sufficient evidence to justify termination of his parental rights. He claims he will be released on parole soon, and would be able to assume caring for the children about six or eight months after his release. He states this is not an unreasonable amount of time to wait.

A court must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1996). The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems. *In re D.A.*, 506 N.W.2d 478, 479 (Iowa App. 1993). At some point, the rights and needs of the children rise about the rights and needs of the parents. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa App. 1997).

There is clear and convincing evidence to show the children could not be safely returned to Gerald's care at the present time or in the near future. As the juvenile court noted, Gerald would need many months, and perhaps even years, of services before he could adequately care for the children. Gerald has not shown he would be amenable to participation in services. His attitude throughout the case has shown a defiance of juvenile court orders. The children need stability. They cannot wait for Gerald to become a responsible parent. Gerald's parental rights were properly terminated under section 232.116(1)(e).

IV. Other Code Sections

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 App. 1996). Because we have determined Gerald's parental rights were properly terminated under section 232.116(1)(e), we need not address his claims regarding sections 232.116(1)(d) and (i).

We affirm the decision of the juvenile court terminating Gerald's parental rights to his three minor children.

AFFIRMED.