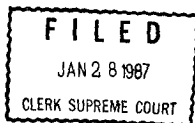


IN THE COURT OF APPEALS OF IOWA



IN THE INTEREST OF J.H.,
A Child,

)

Filed January 28, 1987

G H , Natural Father,

)

6 458
86-785

64

Appellant.

)

Appeal from the Iowa District Court For Dubuque County (102770)

- Lawrence H. Fautsch, District Associate Judge.

The natural father of a seven-year-old boy appeals the juvenile court order which terminated his parental rights pursuant to Iowa Code section 232 116(5) (1985). **AFFIRMED.**

Steven J. Hodge and M.L. Neuhaus of Kaufman, Lange, Hodge & Neuhaus, Dubuque, Iowa, for appellant.

Thomas J. Miller, Attorney General of Iowa, and Valencia Voyd McCown, Assistant Attorney General, for appellee.

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

SCHLEGEL, J.

The natural father of a seven-year-old boy appeals the juvenile court order which terminated his parental rights pursuant to Iowa Code section 232.116(5) (1985). We affirm.

G.H. and M.H. are the natural parents of J.H., born on December 13, 1978. J.H. has cystic fibrosis. He lived with G.H. and M.H. apparently until April 1983, when G.H. was imprisoned on an arson conviction. In August 1983, while G.H. was still in prison, J.H. was adjudicated a child in need of assistance, based on findings that M.H. had left J.H. in the care of an inappropriate person and that she had then been hospitalized. Custody of J.H. was transferred to the Department of Human Services. In March 1984, J.H. was returned to M.H. In September 1984, M.H. died of cancer and custody was again transferred to the Department of Human Services.

In October 1984, G.H. was released from prison; he requested a hearing on the disposition of the child. The juvenile court approved one case plan for G.H. in November 1984 and another in October 1984. The plans required G.H. to establish a home for himself, obtain and keep employment, complete a financial and psychological assessment, visit J.H., cooperate with the Department of Human Services workers, and attend parenting classes. In February 1986 the State of Iowa filed a petition to terminate G.H.'s parental rights pursuant to Iowa Code section 232.116(5) (1985). After a trial, the juvenile court granted the State's petition.

Our review is de novo. We give weight to the findings of the juvenile court, but we are not bound by them. See Iowa R. App. P. 14(f)(7). In the Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981). In child custody cases, the first and governing consideration of the court is the best interests of the child. Iowa R. App. P. 14(f)(15); In re Marriage of Winter, 223 N.W.2d 165,

167 (Iowa 1974). The only issue in this case is whether there is clear and convincing evidence that J.H. could not be returned to the natural father. See In re Interest of Chad, 318 N.W.2d 213, 214 (Iowa 1982).

Iowa Code section 232.116(5)(a)-(c) (1985) provides that in order to obtain a termination of parental rights the State must show:

- a The child has been adjudicated a child in need of assistance pursuant to section 232.96; and
- b The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months; and
- c There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Section 232.102 (1985) provides in relevant part:

- 3 Whenever possible the court should permit the child to remain at home with the child's parent, guardian or custodian. Custody of the child should not be transferred unless the court finds there is clear and convincing evidence that:
 - a The child cannot be protected from physical abuse without transfer of custody; or
 - b The child cannot be protected from some harm which would justify the adjudication of the child as a child in need of assistance and an adequate placement is available.

The fighting issue here is whether there is clear and convincing evidence that J H will suffer harm in the manner specified in Iowa Code section 232.2(6) (1985) Proof by clear and convincing evidence of any one of these types of harm is sufficient to support termination. In the Interest of Dameron, 306 N W 2d at 745. The State argues that J.H. will suffer harm as a child in need of assistance as delineated in section 232.2(6)(b) and (6)(c)(2):

- (6)(b) Whose parent, guardian or other custodian has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

(6)(c) Who has suffered or is imminently likely to suffer harmful effects as a result of:

* * *

(2) The failure of the child's parent, guardian, or custodian to exercise a reasonable degree of care in supervising the child.

The record reveals, through the testimony of juvenile court officers, social workers, psychologists, protective service supervisors, and investigators, that the best interest of J.H. demands that the natural father's parental rights be terminated. The history of abuse, the history of neglect, the lack of sufficient interest in the child has suggested that J.H. would be imminently likely to suffer abuse or neglect or lack of a reasonable degree of care in supervision. Also, the father does not appear to have adequately fulfilled the requirements of the court ordered and approved case plan that might have assisted him in maintaining his parental rights.

The evidence is clear and convincing that J.H. would be imminently likely to suffer abuse, neglect, or lack of care in his supervision if returned to his father. Therefore, we affirm the juvenile court's decision to terminate parental rights.

AFFIRMED.