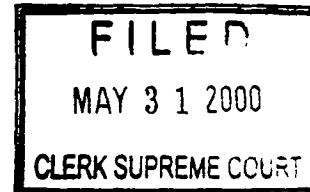


IN THE COURT OF APPEALS OF IOWA

No. 0-197 / 98-1984
Filed May 31, 2000

**IN THE INTEREST OF
T.L. MINOR CHILD**



C.C. FATHER,

Appellant.

Appeal from the Juvenile District Court for Polk County, Karla J. Fultz,
Judge.

Father appeals the termination of his parental rights to his son.

AFFIRMED.

Kermit L. Dunahoo of Dunahoo Law Firm, Des Moines, for appellant-
father.

Thomas J. Miller, Attorney General, Janet Hoffman, Assistant Attorney
General, Ray Blasé, Assistant County Attorney for appellee-State

Raymond D. Perry, Des Moines, for appellee-minor child.

Considered by Sackett and Hecht, J.J., and Honsell, S.J.*

Senior judge assigned by order pursuant to Iowa Code Section 602.9206 (1999).

HONSELL, S.J.

The child, T.L., was born on October 15, 1995. C.C. is his father. T.J. was removed from his mother's custody on December 27, 1995, and placed in foster care. On February 27, 1996, he was adjudicated a child in need of assistance. T.L. was returned to the custody of his mother during July of 1997, and remained with her until November of that year when he was again placed in foster care. Also after the adjudication the mother of the child was offered and received various services, however she did not follow through with treatment as requested. On October 6, 1998, the juvenile court terminated the parental rights of both parents.

The parental rights of C.C. were terminated because he failed to provide T.L. with emotional, physical or financial support. Knowing where T.L. was and who had custody of him, C.C. still did not apparently chose to exercise the contact with him which would be necessary to provide the child with emotional and physical support. C.C. also knew who the Department of Human Services person assigned to this case was and how he could contact that person, yet he chose not to do so. C.C. having acknowledged to the caseworker that he had a problem with a controlled substance or substances failed to respond to a request made during April of 1998, that he provide clean drug screens. As alluded to by the caseworker during the termination hearing which C.C. chose not to attend, he abandoned T.L. in all of the enumerated areas set forth in the first sentence of this paragraph.

I. The scope of review in termination cases is *de novo*. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1994). 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 child. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996).

II. C.C. contends that the State failed to offer clear and convincing evidence that the child was abandoned or deserted pursuant to Iowa Code § 232.116(1)(b). Giving up parental rights and responsibilities refers to conduct. The intent element relates to the accompanying state of mind. Moreover, parental responsibilities include more than subjectively maintaining an interest in a child. The concept requires affirmative parenting to the extent it is practical and feasible in the circumstances. See *In re J.L.Z.*, 492 Pa. 7, 421 A.2d 1064, 1064-65 (1980) ("This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child. . . . Because a child needs more than a benefactor, parental duty requires that a parent exert himself to take and maintain a place of importance in the child's life."); see also Placey, Effect of the Adoption Act of 1970 on Termination of Parental Rights, 81 Dickinson L.Rev. 709 (1977). *In re Goettsche*, 311 N.W.2d 104, 106 (Iowa 1981).

C.C. abandoned T.L. through his conduct in failing to have meaningful contact with the child, in failing to provide financial or emotional support, and in failing to express significant interest in the child's welfare by establishing such contacts through the caretakers.

III. C.C. also contends the State did not engage in reasonable efforts to reunite him with his son. 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). 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 App. 1997).

There is no evidence to show Tyson requested additional services prior to the termination hearing. Therefore, we need not address this issue on appeal.

We affirm the decision of the juvenile court removing T.L. from his father's care.

AFFIRMED.

Hecht, J. and Honsell, S.J. concur, Sackett, C.J. concurs specially without opinion.