IN THE COURT OF APPEALS OF IOWA

No. 0-678 / 00-0758
Filed November 8, 2000

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CLERK SUPREME COURT

IN THE INTEREST OF C.M.,
Minor Child,

J.M., Father,
Appellant.

Appeal from the Iowa District Court for Linn County, Susan Flaherty, District Associate Judge.

Father appeals the juvenile court's order terminating his parental rights to his child. **AFFIRMED.**

Michael M. Lindeman of Lindeman Law Firm, Cedar Rapids, for appellant.

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

Steven Jackson, Jr. of Jackson Law Office, Cedar Rapids, guardian ad litem.

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 minor child. He claims the State did not present clear and convincing evidence justifying termination of his parental rights and termination is not in the child's best interests. We affirm.

James and Jody are the parents of Chastity, born in March 1998. Chastity was born with medical problems, including a cleft palate, heart murmur, and ear problems. The family became involved with the Department of Human Services (DHS) in December 1998 because the parents were not taking Chastity to medical appointments. Jody was then living in a shelter and James was living with relatives. Family preservation services were initiated.

Chastity was hospitalized in January 1999 due to vomiting and diarrhea. Jody stated she was overwhelmed by parenting an ill child. Nurses were concerned about James's quick temper. Chastity was scheduled for surgery on her cleft palate and social workers were concerned about the parents' ability to meet her specific medical needs. She was removed from her parents' care and placed in foster care. Chastity was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2), (e), and (g).

James and Jody have a very unstable relationship. After Chastity's removal, James and Jody moved into an apartment together. They had a falling out, and Jody obtained a no-contact order. At a hearing on the no-contact order, James threatened to kill Jody. He was then charged with harassment. In May 1999, James and Jody reunited, only to separate again. There was some

evidence the parents reunited a second time during the pendency of the case, only to separate again.

James was inconsistent in attending parenting sessions and visitation. Chastity had surgery for her cleft palate in July 1999. James disappeared for about three weeks and was not available to visit Chastity in the hospital. James missed parenting sessions and visits at other times as well.

James has problems with anger management. He has problems maintaining employment because of fights with co-workers. James had a psycho-social evaluation in August 1999. He admitted getting angry about little things, and sometimes getting so angry he blacked out. James was diagnosed with mood disorder and intermittent explosive disorder. He has not attended recommended individual therapy.

Chastity has done well in foster care. She was developmentally delayed at the time she was removed from her parents' care. Her development improved while she was in foster care. Chastity has asthma, as well as recurrent respiratory and ear infections. She will need continual monitoring for medical problems throughout her life.

The State filed a petition to terminate the parental rights of James and Jody in January 2000. The juvenile court terminated the parents' rights based on section 232.116(1)(g). The court found James was unable to care for Chastity without supervision. The court noted James had significant mood swings. James appeals.

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 child. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

II. Sufficiency of the Evidence

James claims the State did not present sufficient evidence to justify termination of his parental rights. He asserts he made positive efforts to reunite with Chastity. James admits he has mood swings and anger problems, but he claims he has never directed his anger at Chastity.

A good prediction of the future conduct of a parent is to look at the past conduct. *In re N.F.*, 579 N.W.2d 338, 341 (Iowa App. 1998). The parent's past performance may indicate the quality of care the parent is capable of providing in the future. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997).

There is clear and convincing evidence in the record to show Chastity could not be returned to James's care at the present time, which is an element of section 232.116(1)(g). James was offered family preservation services, visiting nurse services, individual counseling, parent skill development sessions, and supervised visitation. He was inconsistent in attending services and visitation, which shows a lack of commitment to his child.

Due to failure to fully participate in services, James did not acquire the ability to meet Chastity's medical needs. Furthermore, James has not addressed his problems with mood swings and anger. At the time of the termination

hearing, James was not receiving recommended mental health treatment or therapy. James has not demonstrated stability in employment or housing. For all of these reasons, we determine James's parental rights were properly terminated under section 232.116(1)(g).

III. Best Interests

James contends termination of his parental rights is not in Chastity's best interests. He states he has a bond with the child. He asks for more time to continue to bond with her and progress in improving his parenting abilities.

Even if the statutory requirements for termination of parental rights are met, the decision to terminate must still be in the best interests of the child. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). In determining the best interests of a child, the court looks to the child's long-range and immediate interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). The court must consider the physical, mental, and emotional condition and needs of the child in deciding to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996).

We find termination of James's parental rights is in Chastity's best interests. As noted above, James's inconsistent participation in services and visitation shows a lack of commitment to the child. James has not worked to place himself in a position to meet Chastity's needs. Chastity should not be required to wait longer for a permanent home.

We affirm the decision of the juvenile court.

AFFIRMED.