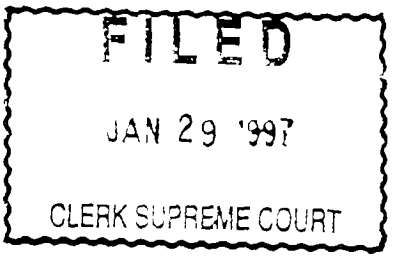
IN THE COURT OF APPEALS OF IOWA

No. 6-684 / 96-1011



IN THE INTEREST OF D.B. and J.B., Minor Children,

D.G.B., Father,
Appellant.

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

A father appeals from the termination of his parental rights. **AFFIRMED.**

Martha L. Johnson, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Charles K. Phillips, Assistant Attorney General, and Jaki Livingston, Assistant County Attorney, for appellee State.

Traci J. Poe, Des Moines, until withdrawal, for minor children.

Heard by Sackett, P.J., and Cady and Huitink, JJ.

SACKETT, P.J.

Todd, the birth father of Dominique, born in July 1993, and Jasmine, born in July 1994, appeals from the juvenile court's order terminating his parental rights to the two children. Todd contends there is not clear and convincing evidence Dominique and Jasmine cannot be returned to his care and the State failed to provide him with the services necessary to correct his deficiencies as a parent. We review de novo, *In re A.Y.H.*, 508 N.W.2d 92, 94 (Iowa App. 1993), and affirm.

Todd and Donna, the children's birth mother, never married. Donna has given birth to eight other children who have other birth fathers. Five of her children were the subject of termination of parental rights proceedings in California. The other children are not under her care.

Dominique and Jasmine were removed from Donna's care principally because the children were exposed to drug use and tested positive on a drug screen. They ultimately were placed in foster care. Donna's parental rights to Dominique and Jasmine have been terminated and she has not appealed from that decision.

Todd's claims that there is not clear and convincing evidence the children cannot be returned to his care and that he has not been offered reasonable services focus on the same issue. That is, whether it is clear Todd cannot care for the children.

The children were removed while in their mother's care and the critical issues focused on her care of the children. Todd moved in and out of the lives of Donna and

the children. Their relationship has not been without problems. Todd pled guilty to simple assault on a domestic abuse charge. An order was entered directing he not contact Donna, but they both violated the order and cohabited. Todd had knowledge of Donna's drug use and the conditions under which she maintained the children, but took no affirmative action earlier to be named their custodian.

There is no evidence that Todd has the current ability to provide a home for his children. He was willing to trust their care to Donna despite known problems. He assaulted Donna. A parent's past performance may be considered in assessing the quality of care the parent may be able to provide in the future. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We look at all factors and determine there is clear and convincing evidence the children cannot be returned to Todd's care.

The next question is whether the State offered Todd the necessary services. There is an obligation to offer parents services to preserve the family unit before the State can terminate parental rights. *In re H.H.*, 528 N.W.2d 675, 677 (Iowa App. 1995); *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa App. 1994).

We agree with Todd the thrust of the services offered was an attempt to correct Donna's deficiencies as a parent. One of Todd's complaints is that he was not given the opportunity to receive services unless he moved to Des Moines when he had a job in Waterloo. We agree that a parent should be able to receive services in the community where he or she lives and works.

Todd requested no specific services that were not offered. Todd was scheduled to have what is termed a "parenting evaluation," but he did not keep a scheduled appointment. Todd did not avail himself of scheduled visits with the children. Challenging the failure to offer specific services should be made at the earliest date and the value of services offered should be challenged when offered. Waiting until the termination hearing or appeal is too late. *See In re H.H.*, 528 N.W.2d at 678; *In re C.W.*, 522 N.W.2d 113, ___ (Iowa App. 1994); *In re L.M.W.*, 518 N.W.2d at 807. We affirm the juvenile court on this issue.

The guardian ad litem has joined the State and has filed a brief which was helpful to us. The record is not clear as to what the future holds for these children. We remind the State and the guardian ad litem of their obligation to see that these children are placed in good adoptive homes at the earliest possible date.

AFFIRMED.