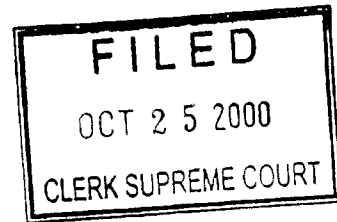


**IN THE COURT OF APPEALS OF IOWA**

No. 0-563 / 99-1505  
Filed October 25, 2000

**IN THE INTEREST OF S.C.**, Minor Child,  
**R.C.**, Father,  
Appellant.



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Appeal from the Iowa District Court for Des Moines County, Thomas R. Brown, District Associate Judge.

The father of minor child S.C. appeals a district court order terminating his parental rights. **AFFIRMED.**

William Monroe, Burlington, for appellant.

Thomas J. Miller, Attorney General, Tabitha Gardner, Assistant Attorney General, and Patrick C. Jackson, County Attorney, for appellee State.

Mary Ann Brown of Bauer, Schulte, Hahn, Swanson & Brown, Burlington, guardian ad litem for minor child.

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

**VOGEL, P.J.**

A father appeals the decision of the juvenile court which terminated his parental rights to his minor child. He claims: (1) the State violated his due process rights; (2) the State did not use reasonable efforts to reunite him with his child; and (3) the State did not present sufficient evidence to warrant termination of his parental rights. We affirm.

Robert and Jennifer are the parents of Shelby, born in September 1995. Robert lived with Jennifer for a period of time and was aware she was pregnant. He and Jennifer separated prior to Shelby's birth. Robert was not involved in Shelby's life and did not provide any care or assistance for her. He has had no contact with Shelby throughout her entire life.

In February 1996, Shelby was removed from Jennifer's care and placed in the care of the maternal grandparents. In May 1996, Shelby was placed in foster care. Shelby was adjudicated to be a child in need of assistance on June 26, 1996.

Early in the case, Jennifer told social workers from the Department of Human Services (DHS) Scott, her husband, was Shelby's father. In August 1997, Robert contacted DHS and stated he was the father of a child with Jennifer, although he did not know the child's name. Robert was referred to the courthouse to fill out a form in order to receive court-appointed counsel. Robert had no further contact with DHS for approximately fifteen months. In November 1997, the juvenile court ordered Jennifer and Scott to participate in paternity

testing. The test results were received in March 1998 and showed Scott was not Shelby's father.

In June 1998, the juvenile court determined the goal of the case should be modified to termination of parental rights. The court ordered that Robert should be served with notice of any petition for termination. Robert was ordered to submit to paternity testing. Test results were obtained in October 1998, concluding Robert was Shelby's father. In November 1998, Robert contacted DHS regarding Shelby. He was again referred to the courthouse to obtain court-appointed counsel. He did not pursue any further contact with DHS.

In February 1999, the State filed a petition seeking the termination of the parental rights of Robert and Jennifer to Shelby. A permanency hearing was held on March 18, 1999, which Robert attended. In April 1999, Robert filed a petition requesting visitation with Shelby. The State and the guardian ad litem resisted the request for visitation. The court determined this issue should be addressed at the termination hearing.

The termination hearing was held in August 1999. The juvenile court concluded Robert's parental rights should be terminated under section 232.116(1)(b). The court found Robert had abandoned Shelby. The court also determined Robert had not maintained significant and meaningful contact with the child. Because the court terminated Robert's parental rights, no visitation was ordered. Thus, Robert has never met his daughter, Shelby. The court also terminated Jennifer's parental rights. Robert 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 E.K.*, 568 N.W.2d 829, 830 (Iowa App. 1997). Our primary concern is the best interests of the child. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000).

## **II. Due Process**

Robert contends he was denied his right to due process. He asserts the termination of his parental rights, in the absence of a compelling state interest, violates his due process rights. Although he was given notice of the hearing and an opportunity to be heard, Robert argues he was not given a fair opportunity to develop a relationship with Shelby.

The State claims Robert did not preserve error for our review. The issue of due process was not addressed by the juvenile court. Robert did not file a motion pursuant to Iowa Rule of Civil Procedure 179(b). By failing to file a 179(b) motion in juvenile court, Robert waived his due process claims. See *In re A.M.H.*, 516 N.W.2d 867, 872 (Iowa 1994). An issue not presented in the juvenile court may not be raised for the first time on appeal, even an issue of constitutional dimensions. *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa App. 1994). We determine this issue has not been preserved for our review.

## **III. Reasonable Efforts**

Robert asserts the State did not engage in reasonable efforts to unite him with Shelby. He points out he did not receive any services. After the petition for

termination of his parental rights was filed, Robert asked for visitation with Shelby, but in view of the pending termination hearing, the juvenile court did not grant visitation.

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). Generally, DHS must make reasonable efforts to provide services to eliminate the need for removal. *In re T.C.*, 522 N.W.2d 106, 108 (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.*

Under the facts of this case, we find the State acted reasonably in not offering Robert visitation or any other services. He made no effort to participate in Shelby's life until March 1999, after the petition to terminate his parental rights had been filed. As early as August 1997, Robert knew Shelby was in foster care, but took no action to place himself in a position to be able to care for her or be a part of her life. Robert is a stranger to Shelby. It would not be in Shelby's best interests to begin visitation with Robert at this late date.

#### **IV. Sufficiency of the Evidence**

Robert contends the State did not present sufficient evidence to show he abandoned Shelby. Robert sought visitation with Shelby, and he asserts this shows he was interested in his child and had not abandoned her.

**"Abandonment"** means the giving up of parental rights and responsibilities accompanied by an intent to forego them. *In re A.B.*, 554 N.W.2d 291, 293 (Iowa App. 1996). - Parental responsibilities include more than subjectively maintaining an interest in a child. *In re R.L.F.*, 437 N.W.2d 599, 601-02 (Iowa App. 1989). The concept requires affirmative parenting to the extent it is practical and feasible in the circumstances. *In re D.M.*, 516 N.W.2d 888, 891 (Iowa 1994).

The State presented clear and convincing evidence to show Robert abandoned Shelby. In 1995, Robert was aware Jennifer was pregnant presumably with his child, but he did nothing to develop any relationship with his child or provide any financial or emotional support. Even after he was aware Shelby was in foster care, he did not assert any parental rights until after the petition to terminate his parental rights was filed. Robert has never even met Shelby, let alone assumed any of a parent's responsibilities toward his child. Robert's parental rights were properly terminated under section 232.116(1)(b).

We affirm the decision of the juvenile court.

**AFFIRMED.**