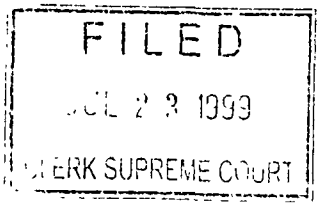
IN THE COURT OF APPEALS OF IOWA

No. 1999-160 (9-377) / 99-0171
Filed July 23, 1999



IN THE INTEREST OF
T.H., Minor Child,

T.H., Father,
Appellant.

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

Father appeals the termination of his parental rights to his daughter. **AFFIRMED.**

Ryan B. Moorman, West Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Bruce Kempkes and Kathrine S. Miller-Todd, Assistant Attorneys General, for appellee-State.

Michael Oliver, Des Moines, guardian ad litem for minor child.

Considered by Huitink, P.J., and Streit and Mahan, JJ.

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STREIT, J.

Tyson is the father of Taylor, who was born in April 1995. Tyson appeals the decision of the juvenile court terminating his parental rights to his daughter. We affirm the decision of the juvenile court.

Tyson began living with Taylor's mother, Kelsey, in 1993. There were repeated physical altercations between Tyson and Kelsey. In September 1995 Tyson struck Kelsey while she was holding Taylor. The Iowa Department of Human Services issued a founded report of denial of critical care against Tyson for this incident. Tyson was also arrested for domestic abuse. He has an extensive criminal history.

In May 1996 Tyson was arrested for cutting a man's throat with a razor blade. He subsequently entered a guilty plea to second-degree robbery. Tyson was sentenced to a term of imprisonment not to exceed ten years. He is expected to be released in June 2001, but could be released earlier on parole.

Taylor continued to live with Kelsey until January 1998, when Kelsey was shot and killed. Taylor was present at the time of the murder, but it is not certain how much she actually saw. She was placed in the home of her maternal grandfather and his wife. She was adjudicated to be a child in need of assistance pursuant to Iowa Code sections 232.2(6)(c)(2), (j), and (n).

Taylor suffers from post-traumatic stress syndrome, and she receives counseling from Dr. Barbara Cavallin. Dr. Cavallin did not recommend visitation

between Taylor and Tyson while he was in prison. Tyson was permitted to contact Taylor by telephone during Taylor's sessions with Dr. Cavallin or by letters sent to Dr. Cavallin. Tyson did not avail himself of this opportunity. Taylor does not seem to have much of a bond with Tyson. Taylor's present caretakers, her maternal grandfather and his wife, have expressed an interest in adopting her.

In July 1998 the State filed a petition to terminate Tyson's parental rights. The juvenile court terminated Tyson's parental rights pursuant to sections 232.116(1)(b) and (g). The court found Tyson was unavailable due to incarceration for most services, and he had refused others. The court concluded termination was in Taylor's best interests. Tyson has appealed.

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. Tyson contends the State did not engage in reasonable efforts to reunite him with Taylor. He points out he was never offered parenting classes. He also believes he should have been granted visitation, even though he was in prison.

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. Thus, we need not address this issue on appeal.

Even if we were to address this issue on the merits, we would find the State made reasonable efforts to reunite Tyson with Taylor under the facts of the case. Tyson had an opportunity to contact Taylor through Dr. Cavallin, but did not take advantage of this opportunity. Given the fact Tyson was in prison throughout this case, we find DHS efforts toward reunification were reasonable.

III. Tyson claims it is not in Taylor's best interests to terminate his parental rights. He points out that since Kelsey was murdered, Taylor only has one parent. He believes it is unfair to Taylor to take away her only remaining parent. He asserts he could be a stabilizing influence on Taylor during this difficult time for her.

In determining the best inte. ests of a child, a 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 whether to terminate parental rights. *In re C.W.*, 554 N.W.2d 279, 282 (Iowa App. 1996). We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can soon translate into intolerable hardship for the children. *In re A.Y.H.*, 508 N.W.2d 92, 96 (Iowa App. 1996).

In a report to the court a DHS social worker stated:

> Tyson has no demonstrated history of being a consistent caretaker in Taylor's life even prior to his present incarceration. It is questionable if Taylor would recognize Tyson as being a significant caretaker due to Tyson's own inconsistent investment in her life when he was available to do so. Tyson has a history of substance abuse which he has chosen to not address. He has substantiated protective concerns against him where he assaulted Kelsey while she was holding Taylor when Taylor was an infant. Tyson has failed to maintain minimal contacts with Taylor through letters/phone calls while he has been incarcerated.

We find it is in Taylor's best interests to terminate Tyson's parental rights. In looking at the possible future Taylor would have with Tyson, there is only uncertainty. Tyson has a history of substance abuse and violence. It is questionable if he will make the changes needed to provide a stable life for Taylor. Taylor needs stability in her life now.

We affirm the decision of the juvenile court terminating Tyson's parental rights to Taylor.

AFFIRMED.