IN THE COURT OF APPEALS OF IOWA

No. 9-226 (1999-69) / 98-1015

IN THE INTEREST OF
R.S., IV, I.S., and D.S., Minor Children,

R.S., III, Father,
Appellant.

CLERK SUPREME COURT

Appeal from the Iowa District Court for Scott County, Michael A. Woods, Associate Juvenile Judge.

Father appeals the termination of his parental rights to his three children.

AFFIRMED.

William J. Bishop of the Bribriesco Law Offices, Davenport, for appellant.

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

Lauren M. Phelps, Davenport, guardian ad litem for minor children.

Considered by Sackett, C.J., and Streit and Zimmer, JJ.

PER CURIAM.

Rufus III appeals the district court's decision to terminate his parental rights. He contends the court erred in: (1) finding he had abandoned his children; (2) finding he had been offered services necessary to correct this situation; (3) determining he had failed to maintain significant and meaningful contact with the children; and (4) finding the children had been removed from his custody and they were unable to be returned. We affirm the termination.

Rufus III is the father of Rufus IV, born in October 1989; Iesha, born in March 1991; and Devonta, born in January 1993. Rufus III and the children's mother, Crystal, had been involved in a long-term relationship, which ended sometime in 1993. During the relationship they lived together and Rufus III helped care and provide for the family. When the relationship ended, Rufus III moved out of the home and had no further contact with his children, financially or physically. In August 1994, Rufus III was incarcerated and remained incarcerated at the time of the termination hearing in May 1998.

The children came to the attention of the Department of Human Services (DHS) in November 1996, when Crystal gave birth to twins and admitted she had used cocaine during her pregnancy. All of Crystal's children, including the three involved in this appeal, were deemed children in need of assistance in January 1997, based on Crystal's failure to provide proper care for the children due to her long-term substance abuse. The children were placed in foster care and remained there

throughout the termination hearing. During the time the children were in foster care, Rufus III received copies of all petitions, court orders, and case permanency plans. The termination hearing was in May 1998, at which time the parental rights of the mother and all of the fathers were terminated. Rufus is the only party to appeal.

We review proceedings to terminate parental rights de novo. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the findings of the juvenile court, particularly with respect to the credibility of witnesses, but are not bound by them. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990); *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa App. 1995); Iowa R. App. P. 14(f)(7).

Rufus III contends the trial court improperly found there was clear and convincing evidence of his abandonment of the children. Abandonment is "a giving up of parental rights and responsibilities accompanied by an intent to forgo them." *Matter of Burney,* 259 N.W.2d 322, 324 (Iowa 1977); *In re Goettsche*, 311 N.W.2d 104, 106 (Iowa 1981). Rufus III, by his own admissions, moved out of the family home in 1993 and has only seen his children once since that time. Rufus III has been incarcerated since August 1994; however there is a time frame of at least eight months before going to jail where he had no contact of any kind with the children. Rufus III abandoned the children before he entered jail; he left his children with a drug addicted mother and made no attempts to offer financial or emotional support.

While in jail, Rufus III claims to have written to his children on a regular basis. He offered three copies of letters he had written to his children. Even if we evaluate

the amount of communication from the point Rufus III offered copies, December 1997 through the time of the termination hearing in May 1998, three cards are scarcely enough to be considered significant. At no time did Rufus III provide any type of financial support for the children, and the only explanation Rufus III offered for this was "he was not required to." One visit and a few cards in five years cannot equate to an intent to be a parent to these children. We believe there is clear and convincing evidence Rufus III left his children with the intent of abandonment. There is sufficient evidence under section 232.116(1)(b)[1] to show the children were abandoned by Rufus III. We affirm the termination on the basis of abandonment.

In our analysis of the remaining three claims brought by Rufus III, we find his contentions are without merit. We affirm the decision of the juvenile court to terminate Rufus III's parental rights.

AFFIRMED.

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[1] . . . the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

b. The court finds that there is clear and convincing evidence that the child has been abandoned or deserted.

Iowa Code § 232.116(1)(b)(1997).

No. 98-1015. [9-226 (1999-69)] IN RE R.S.

Appeal from the Iowa District Court for Scott County, Michael A. Woods, Associate Juvenile Judge. **AFFIRMED.** Considered by Sackett, C.J., and Streit and Zimmer, JJ. Per Curiam. (4 pages $2.00)

Rufus III is the father of Rufus IV, born in October 1989; Iesha, born in March 1991; and Devonta, born in January 1993. During his relationship with the children's mother, Crystal, the parties lived together and Rufus III helped care and provide for the family. When the relationship ended, Rufus III moved out of the home and had no further contact with his children, financially or physically. In August 1994, Rufus III was incarcerated and remained incarcerated at the time of the termination hearing in May 1998. The children came to the attention of the Department of Human Services (DHS) in November 1996. All of Crystal's children were children in need of assistance since January 1997, based on Crystal's failure to provide proper care for the children due to her long-term substance abuse. The children were placed and remained in foster care throughout the termination hearing. During the time the children were in foster care, Rufus III received copies of all petitions, court orders, and case permanency plans. The termination hearing was in May 1998, at which time the parental rights of the mother and all of the fathers were terminated. **OPINION HOLDS:** There was clear and convincing evidence of Rufus's abandonment of the children. Rufus III moved out of the family home in 1993 and has only seen his children once since that time. One visit and a few cards in five years cannot equate to an intent to be a parent to these children. There is clear and convincing evidence Rufus III left his children with the intent of abandonment. We affirm the decision of the juvenile court to terminate Rufus III's parental rights.