**IN THE COURT OF APPEALS OF IOWA**

No. 0-443 / 00-204
Filed August 30, 2000

**IN THE INTEREST OF**
**C.W. and A.W.**
**Minor Children,**

**H.W., Father,**
**Appellant.**

FILED
AUG 30 2000
CLERK SUPREME COURT

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

The father appeals from the termination of his parental rights. **APPEAL DISMISSED.**

Mark C. Meyer of Kinnamon, Kinnamon, Russo & Meyer, Cedar Rapids, for appellant.

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

Les Stokke, Cedar Rapids, for minor children.

Considered by Zimmer, P.J., and Vaitheswaran, J., and Hayden, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 692.9206 (1999).

**HAYDEN, S.J.**

Henry and Clementine are the parents of Connie, born March 30, 1994, and Alyssa, born December 13, 1997. Henry appeals the decision of the juvenile court terminating his parental rights. He claims, on appeal, he was denied his U.S. and Iowa constitutional right of due process. Specifically, he claims he was denied an opportunity to be heard. He argues the court did not have jurisdiction to terminate his parental rights.

Clementine, mother, consented to termination of her parental rights and does not appeal.

Connie was adjudicated a child in need of assistance on May 19, 1997. She was removed from the parental home by emergency order on February 6, 1998, and placed in foster care. Alyssa was removed from the parental home by emergency order on February 16, 1998, and placed in foster care. She was adjudicated a child in need of assistance on February 26, 1998.

On August 20, 1999, the State filed a petition for termination of parental rights of both parents to both children. A hearing on this petition was held on December 20, 1999. Henry did not appear at the termination hearing. He was represented by his attorney. His attorney stated to the court he had written a letter to Henry notifying him of the date and time of the hearing. Henry did not respond. The juvenile court had the court attendant page Henry's name throughout the court house. The court attendant reported back to the court there had been no response to the calls. Henry's attorney was present during the termination hearing.

**I. Scope of Review.** Appellate review of proceedings to terminate a parent-child relationship is de novo. *In re Dameron,* 306 N.W.2d 743, 745 (Iowa 1981). The court reviews the facts as well as the law and adjudicates rights anew. *Id.* The court gives weight to the fact findings of the juvenile court, especially concerning the credibility of witnesses whom the juvenile court has heard and observed, but the court is not bound by these findings. *In re R.K.B.,* 572 N.W.2d 600, 601 (Iowa 1998).

When a violation of a constitutional right is alleged, the Iowa supreme court conducts a de novo review and makes an independent evaluation of the totality of the circumstances under which the ruling was made. *State v. Cullison,* 227 N.W.2d 121, 126 (Iowa 1975).

Henry never raised the due process issue with the juvenile court during the termination hearing or by filing a motion pursuant to Iowa Rule of Civil Procedure 179(b) following the filing of the court's order terminating his parental rights. *See* Iowa R. Civ. P. 179(b). We have researched the record in this case thoroughly and determine the constitutional, due process issue was never brought before the juvenile court.

An appellant waives any due process and/or constitutional issues by failing to file a Rule 179(b) motion. *In re A.M.H.,* 516 N.W.2d 867, 872 (Iowa 1994); *In re N.E.W.,* 564 N.W.2d 451, 456 (Iowa App. 1997). An issue not presented in the juvenile court may not be raised for the first time on appeal, even a constitutional issue. *In re V.M.K.,* 460 N.W.2d 191, 193 (Iowa App. 1990).

For the above reasons this appeal is dismissed at appellant's cost.

**APPEAL DISMISSED.**