FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTERESTS OF N.J.S. AND M.W.S.)
Children;
)
K.J.S., Natural Mother,
)
Appellant.

Filed September 6, 1984

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4-242
83-771

Appeal from the Iowa District Court for Webster County - Mark S. Cady, Judge.

The natural mother of two children appeals from the juvenile court's denial of her petition to terminate the parental rights of the children's natural father. AFFIRMED.

Dan T. McGrevey, Fort Dodge, for appellant.

R. Thomas Price of Price, Goode, Green & Fisher, Fort Dodge, for appellee (J.J.S., the natural father).

Stephen G. Kersten of Kersten, Opheim, Carlson & Trevino, Fort Dodge, guardian ad litem.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

DONIELSON, J.

The natural mother of two children appeals from the juvenile court's denial of her petition to terminate the parental rights of the children's natural father. The natural mother asserts that she has established both that the natural father abandoned the children, pursuant to Iowa Code section 600A.8(3), and that he failed to support the children after being ordered to do so, pursuant to Iowa Code section 600A.8(4).

Kathleen and John were married in 1978. They have two children: N.J.S., born in 1978; and M.W.S., born in 1980. The marriage was dissolved in 1981 at which time Kathleen was awarded custody of the children. John was ordered to pay child support of $175 per month for a year and $250 per month thereafter. He was also granted reasonable visitation of the children, including alternate weekends.

In 1982, Kathleen filed a petition for termination of John's parental rights. She had remarried and evidently her new husband wanted to adopt the children. Alleged grounds for termination included abandonment and failure to pay child support. The district court denied the petition to terminate parental rights and Kathleen has appealed.

Our review of proceedings to terminate a parent-child relationship is de novo. In re Goettsche, 311 N.W.2d 104, 106 (Iowa 1981). We give weight to the fact findings of the juvenile court, but we are not bound by the findings. Iowa R. App. P. 14(f)(7). The best interests of the children are central to our determination. In re Dameron, 306 N.W.2d 743, 745 (Iowa 1981).

Kathleen's first claim is that her former husband abandoned the children. Iowa Code section 600A.8(3) provides that parental rights may be terminated when there is clear and convincing evidence that the child has been abandoned. Abandonment as the term is defined in section 600A.2(16) requires a relinquishment of parental rights and responsibilities accompanied by intent to forego them. In re Goettsche, 311 N.W.2d 104, 106 (Iowa 1981). The supreme court has recognized

that "[p]arental responsibilities include more than subjectively maintaining an interest in a child. The concept requires affirmative parenting to the extent that it is practical and feasible in the circumstances." Id.

The record reveals that John stopped visiting his sons on a regular basis within four months after the dissolution was granted. However, Kathleen could hardly be characterized as cooperative in this regard. On some occasions she refused to allow John to see his sons. Furthermore, she did not allow the children to see letters and cards sent by their father. We agree with the trial court that "John's ability to maintain communication and association with his sons was inhibited by Kathleen's conduct and attitude." Given all the circumstances, the conclusion cannot be drawn that John abandoned his sons. Certainly he was substantially less than an admirable father and his contact with the children was at best minimal. Yet the record reflects that he did not intend to abandon his children. The very fact that he wrote cards and letters to the children supports this conclusion.

We also cannot agree with Kathleen that John's parental relationship should be terminated for nonpayment of child support. Pursuant to section 600A.8(4), termination is authorized when "a parent has been ordered to contribute to the support of the child . . . and has failed to do so without good cause." When a parent's failure to pay manifests indifference to a child, it is akin to abandonment, thereby justifying termination. Klobnock v. Abbott, 303 N.W.2d 149, 152 (Iowa 1982). The failure to pay without good cause must be substantial and not "merely sporadic or insignificant." Id.

The record supports the conclusion that John failed to pay child support without good cause for approximately four months. Kathleen's refusal to allow visitation is not a sufficient reason to withhold support payments. Id. Yet the record falls short of establishing by clear and convincing evidence the substantial failure necessary for termination of parental rights. We do not condone John's

failure to contribute financially to his children. This court believes that swift and decisive action should be taken to recover all child support in arrears. Obviously there is little or no excuse for John's failure to contribute to his children's support. We can easily imagine a different decision at some later date by the trial court and this court if John continually fails to assume his financial responsibility to his children. At this point in time, however, we are inclined to agree with the trial court's conclusion that John's failure is not "tantamount to a complete and permanent foreclosure of his parental rights."

Accordingly, the decision of the trial court is affirmed.

AFFIRMED.