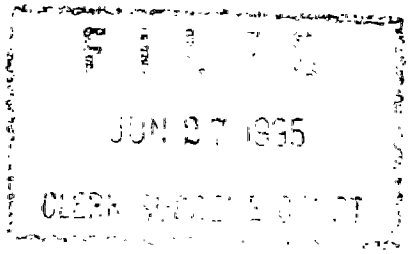
IN THE COURT OF APPEALS OF IOWA

No. 5-306 / 94-1262



IN THE INTEREST OF A.M., Minor Child,

L.H., Father,

Appellant.

Appeal from the Iowa District Court for Polk County, Richard Strickler, Senior Judge.

Father appeals the district court's order terminating his parental rights over his minor child. **AFFIRMED.**

J. Michael Mayer, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Gordon E. Allen, Deputy Attorney General, Barbara E. B. Galloway, Assistant Attorney General, and Michelle Chenoweth, Assistant Polk County Attorney, for appellee-State.

David Arthur Adams of the Juvenile Defender Office, Des Moines, guardian ad litem for minor child.

Considered by Donielson, C.J., and Habhab and Huitink, JJ.

HABHAB, J.

L.H. and M.M. dated for about six months in 1988. They never married or lived with each other. After they ended their relationship, L.H., the father, ran into M.M., the mother, and learned she was pregnant with his child. A.M. was born in January 23, 1989.

L.H. began to serve a prison term for attempted burglary in November 1989. He was released from prison in December 1992.

In March 1991 a petition was filed alleging A.M. was a child in need of assistance (CINA) and in May 1991 she was adjudicated CINA. A.M. continued in M.M.'s custody under the supervision of the Department of Human Services (DHS) until December 1993 when the juvenile court ordered her placed in the custody of DHS.

The State filed a petition to terminate M.M.'s and L.H.'s parental rights over A.M. in February 1994. In the petition the State alleged L.H. had abandoned or deserted A.M. pursuant to Iowa Code section 232.116(1)(b) (1993).

At the June 1994 hearing M.M. consented to the termination of her parental rights. L.H. testified that in 1989, before he went to prison, he saw A.M. three times when M.M. was living in Des Moines and once when M.M. and A.M. were living in Marshalltown. L.H. stated that eight months after he was released from prison he tried to find A.M. at M.M.'s Marshalltown address. He was told by a neighbor that M.M. was no longer living there. L.H. went to the Marshalltown post office to obtain M.M.'s forwarding address but there was none. L.H. then tried to find M.M. in Des Moines and stated he looked for her name in the telephone directory but did not find it listed. The State introduced into evidence the Des Moines telephone directory in which M.M.'s name and address were listed.

L.H. further testified he had never given M.M. any money for A.M. He had not attempted to visit A.M. since the termination proceedings began because he did not want to become attached to her if he was about to lose his parental rights.

The court found L.H.'s "minimal and meaningless efforts to locate his child" rose to the level of abandonment and terminated L.H.'s parental rights pursuant to section 232.116(1)(b).

L.H. appeals.

Appellate review of termination proceedings is de novo. *In re W.G.*, 349 N.W.2d 487, 491 (Iowa 1984), *cert. denied sub nom. J.G. v. Tauke*, 469 U.S. 1222 (1985). We give weight to the findings of fact of the juvenile court, especially when considering the credibility of witnesses, but we are not bound by those determinations. *Id.* at 491-92.

L.H.'s parental rights were terminated pursuant to Iowa Code section 232.116(1)(b) (1993). Section 232.116(1)(b) permits the juvenile court to terminate the parent-child relationship if the court finds "that there is clear and convincing evidence that the child has been abandoned or deserted."

Abandonment occurs when there is "a giving up of parental rights and responsibilities accompanied by an intent to forego them." *In re D.M.*, 516 N.W.2d 888, 891 (Iowa 1994) (quoting *In re Burney*, 259 N.W.2d 322, 324 (Iowa 1977)). "[P]arental responsibilities include more than subjectively maintaining an interest in a child. The concept requires affirmative parenting to the extent it is practical and feasible in the circumstances." *In re Goettsche*, 311 N.W.2d 104, 106 (Iowa 1981).

When the mother told L.H. she was pregnant with his child, L.H. became angry. While A.M. was born in January 1989, L.H. has only seen the child a maximum of four times. The record does not support a finding that these visits were of any substance. All of these instances took place prior to November 1989. When

L.H. lost contact with the mother, his efforts to locate the mother and child were minimal at best.[1] Any efforts made by L.H. to locate the child never showed any urgency. In addition, L.H. never requested visitation with the child, and he never provided any child support. By his own admission, L.H. never even offered to provide any support.

We find the record provides clear support for a finding of abandonment. We affirm the district court's order terminating L.H.'s parental rights pursuant to Iowa Code section 232.116(1)(b).

AFFIRMED.

[1] Due to questions regarding L.H.'s credibility, we have some doubt as to whether some of L.H.'s alleged efforts were even made.