

IN THE COURT OF APPEALS OF IOWA

No. 0-105 / 09-1929
Filed March 10, 2010

**IN THE INTEREST OF A.T.,
Minor Child,**

**K.L.T., Father,
Appellant.**

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,
District Associate Judge.

A father appeals from a juvenile court order terminating his parental rights
to a child. **AFFIRMED.**

Don W. Schroeder, West Liberty, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Janet Lyness, County Attorney, and Emily Voss, Assistant
County Attorney, for appellee.

W. Eric Nelson, Coralville, for mother.

Christine Boyer, Iowa City, attorney and guardian ad litem for minor child.

Considered by Vogel, P.J., Eisenhauer, J., and Miller, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

MILLER, S.J.

The appellant is the father of a daughter (“the child”) who was ten months of age at the time of a December 2009 termination of parental rights hearing. The father appeals from a resulting juvenile court order terminating his parental rights to the child. (The order also terminated the parental rights of the child’s mother, and she has not appealed.) We affirm.

The child was born in late January 2009. At that time the mother was serving a prison sentence. She has thereafter remained in prison or a residential treatment facility. The father has a lengthy criminal history, including involvement in the sale of illegal drugs. He had been imprisoned and was on parole at the time of the child’s birth.

The mother and father have never been married. It appears that they have a volatile relationship. Their parental rights to other children had been terminated in April 2007.

The child was removed from the physical custody of her imprisoned mother shortly after birth. She has thereafter remained in the legal custody of the Iowa Department of Human Services (DHS), placed in family foster care with a foster mother who is willing to adopt her. The child does not recognize her father; has no bond with her father; is strongly bonded to her foster mother, with whom she has lived her entire life; and is thriving in the care of her foster mother.

The child was adjudicated a child in need of assistance (CINA) as to the father in late March 2009. At or about that time the father was released from parole. From about May 2009 until the termination hearing the father had

supervised visitation with the child about once per month, but exercised visitation only when the foster mother transported the child the considerable distance to where the father resided.

The father had no contact with the DHS after June 2009. He did not attend any of the four hearings concerning the child in the CINA proceeding. The father did not attend the termination hearing, but did testify by telephone. He attempts to explain or justify his failure or refusal to attend hearings by claiming a lack of transportation and a lack of money to travel to the hearings. However, bus tickets were available to him if he had made timely requests to the DHS, and a voucher to reimburse him for gasoline expense was available any time he was able to travel to a hearing. Further, the evidence shows that the father's sister did provide him with money for some of his needs, including rent payments.

The juvenile court terminated the father's parental rights pursuant to Iowa Code sections 232.116(1)(e) (2009) (child adjudicated CINA, child removed from parents at least six consecutive months, parent has not maintained significant and meaningful contact with the child and has made no reasonable effort to resume the child's care), (g) (child adjudicated CINA, court has terminated parental rights to another child of the same family, parent continues to lack ability or willingness to respond to services to correct the situation, additional period of rehabilitation would not correct the situation), and (h) (child three or younger, adjudicated CINA, removed from parents at least six of last twelve months, cannot be returned without remaining a CINA). The father appeals.

We review termination proceedings de novo. Although we are not bound by them, we give weight to the trial court's findings of

fact, especially when considering credibility of witnesses. The primary interest in termination proceedings is the best interests of the child. To support the termination of parental rights, the State must establish the grounds for termination under Iowa Code section 232.116 by clear and convincing evidence.

In re C.B., 611 N.W.2d 489, 492 (Iowa 2000) (citations omitted).

The father claims the State failed to prove the third element of section 232.116(1)(e), arguing that “[t]he opportunities and services presented to the father were not reasonable and were intended to provide the illusion that services were offered.” While directed at section 232.116(1)(e)(3), the father’s claim is thus a complaint that the evidence does not show that the State provided reasonable services designed to reunify him with the child.

While the State has an obligation to provide reasonable reunification services, the parent has an equal obligation to demand other, different, or additional services prior the termination hearing. *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999). Challenges to services should be made when the case plan is entered. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). When a parent alleging inadequate services fails to demand services other than those provided, the issue of whether services were adequate is not preserved for appellate review. *Id.*

In a July 2009 permanency order the juvenile court found, in relevant part, that “reasonable efforts have been made to prevent or eliminate the need for the child’s removal from the child’s home.” The father did not appeal from or otherwise challenge the resulting order or that finding. In its order terminating parental rights the court found, in relevant part: “No services have been

requested that have not been provided.” The father does not challenge that finding, the finding is fully supported by the record, and we agree with and adopt it. We conclude error is not preserved on the issue of adequacy of reunification services, and do not further address it.

The father’s parental rights were terminated pursuant to three separate statutory provisions. We have found that error was not preserved as to section 232.116(1)(e). The father makes no claim that the grounds for termination pursuant to sections 232.116(1)(g) and (h) were not proved. No such issue is thus properly before us. See Iowa R. App. P. 6.201(1)(d) (requiring that the petition on appeal from an order terminating parental rights “shall substantially comply with form 5 in rule 6.1401”); Iowa R. App. P. 6.1401, form 5, numbered paragraph 8 (requiring that the petition on appeal “[s]tate the legal issues presented for appeal”). We therefore affirm termination of the father’s parental rights pursuant to these two provisions as well.

In summary, we affirm termination of the father’s parental rights pursuant to all three of the statutory provisions relied on by the juvenile court.

AFFIRMED.