

IN THE COURT OF APPEALS OF IOWA

No. 1-001 / 10-1760
Filed February 9, 2011

**IN THE INTEREST OF L.C.,
Minor Child,**

**T.C., Father,
Appellant.**

Appeal from the Iowa District Court for Bremer County, Peter B. Newell,
District Associate Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Michael Lanigan of the Law Office of Michael Lanigan, Waterloo, for
appellant.

Thomas J. Miller, Attorney General, Janet L. Hoffman, Assistant Attorney
General, and Kasey Wadding, County Attorney, for appellee.

Mark Milder, Waverly, for mother.

Heather Prendergast of Roberts, Stevens & Prendergast, P.L.C.,
Waterloo, attorney and guardian ad litem for minor child.

Considered by Sackett, C.J., and Potterfield and Mansfield, JJ.

SACKETT, C.J.

A father appeals from the order terminating his parental rights to his daughter. He contends the court erred in terminating his parental rights “without the opportunity for reasonable reunification efforts.” He further contends the court erred in finding he abused his daughter. We affirm.

BACKGROUND. The child was removed from the father’s care in February of 2010 and placed in the mother’s care based on allegations of sexual abuse. Following a hearing in March, the court found the child to be in need of assistance and that she had been sexually abused by her father. The court prohibited contact between the father and the child. The investigation resulted in a founded child abuse assessment with the father as the perpetrator. Following a disposition hearing in May, the court entered a dispositional order that again noted the finding the father had sexually abused the child. No appeal was taken from the dispositional order. At a review hearing in July, the father advised the court he declined to participate in a mental health evaluation or psychosexual evaluation on advice of counsel because of possible criminal proceedings. The court heard testimony that even if the father decided to participate in services, the treatment period likely would be lengthy.

Following a hearing in late July, the court found the existence of aggravating circumstances and waived the requirement the State make reasonable efforts to reunify the father and child. The order noted the clear and convincing evidence the father sexually abused the child. No appeal was taken from this order.

In September the State petitioned to terminate the father's parental rights under Iowa Code section 232.116(1)(d), (e), and (i) (2009). The matter came on for hearing in mid-October. The court took judicial notice of the underlying child-in-need-of-assistance court file. Following closing remarks from the attorneys, the court stated:

I don't think that there is really any choice for the court but to grant the State's petition. The court did make a finding as early as March of 2010, that the State had established by clear and convincing evidence that [the father] had sexually abused his daughter. [He] knew at that point that he had a choice to make about whether or not to participate in services. The court found that the abuse that had been perpetrated was not isolated; there was repetitive abuse; there was significant abuse.

Services were offered. The father chose not to participate in those services. He did that knowing that he would not be allowed to have contact with his child if he did not participate in services. That was a choice that he made.

I think at this point it's clear that without participation in services, [the father] still poses significant risks to this child's safety. And in light of that, the court believes that it would be in the child's best interests to terminate [the father's] parental rights.

The court terminated the father's parental rights on all three grounds pled.

The father appeals.

SCOPE OF REVIEW. Our review of termination-of-parental-rights proceedings is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). We review the facts and the law and adjudicate rights anew. *In re H.G.*, 601 N.W.2d 84, 85 (Iowa 1999). We give weight to the juvenile court's factual findings but are not bound by them. *In re E.H., III*, 578 N.W.2d 243, 248 (Iowa 1998).

The parent-child relationship is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S. Ct. 549, 554, 54 L. Ed. 2d 511, 519 (1978); *Wisconsin v. Yoder*, 406 U.S. 205, 233, 92 S. Ct. 1526, 1542, 32 L. Ed. 2d 15, 35

(1972). When the juvenile court terminates a parent's rights, we affirm if clear and convincing evidence supports the termination under the cited statutory provision. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). The State has the burden of proving the allegations by clear and convincing evidence. *In re P.L.*, 778 N.W.2d 33, 34, 39 (Iowa 2010). "Clear and convincing evidence" is evidence leaving "no serious or substantial doubt about the correctness of the conclusion drawn from it." *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002) (quoting *Raim v. Stancel*, 339 N.W.2d 621, 624 (Iowa Ct. App. 1983)). If the juvenile court terminates parental rights on multiple statutory grounds, we may affirm if any ground is supported by clear and convincing evidence. See *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

MERITS. The father contends the court erred in terminating his parental rights "without the opportunity for reasonable reunification efforts." The statutory requirement that the State make reasonable efforts toward reunification was waived following a hearing on aggravating circumstances in July. See Iowa Code § 232.102(12) (allowing the court to waive the requirement for making reasonable efforts). The father did not appeal from this order. *In re D.S.*, 563 N.W.2d 12, 15 (Iowa Ct. App. 1997) ("The failure to appeal an order causes the principles of res judicata to bar further actions."). In addition, the father has not even suggested what services should have been provided that were not offered or provided. See *In re S.R.* 600 N.W.2d 63, 65 (Iowa Ct. App. 1999) (noting the parent has an equal obligation to demand any other, different, or additional

services). The father has not preserved error on this issue. See *id.*; *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994).¹

The father further contends the court erred “in finding by clear and convincing evidence that [he] abused his daughter.” This finding was made in the adjudicatory order and repeated in the dispositional and review orders. No appeal was taken from any orders prior to the termination order. He cannot now raise the issue on appeal from the termination order. See *D.S.*, 563 N.W.2d at 15.

There being no issues properly before us on appeal, we affirm the decision of the juvenile court.

AFFIRMED.

¹ In his petition on appeal, the father suggests that the Department of Human Services failed to provide reasonable services because it declined to be “bound by the result” of the father’s psychosexual evaluation if the father underwent such an evaluation. (The father, in any event, declined to undergo a psychosexual evaluation.) Whatever this argument is, it is not an argument that the State failed to provide reasonable services. There is no dispute that the father was offered services and declined them.