IN THE COURT OF APPEALS OF IOWA

No. 1-385 / 11-0534
Filed May 25, 2011

IN THE INTEREST OF C.M.H.-S.,
Minor Child,

J.E.S., Father,
Appellant.

Appeal from the Iowa District Court for Scott County, John G. Mullen, District Associate Judge.

A father appeals the termination of his parental rights to his child. **AFFIRMED.**

Timothy J. Tupper, Davenport, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Michael Walton, County Attorney, and Julie A. Walton, Assistant County Attorney, for appellee.

Dana Copell, Davenport, for mother.

Lucy Valainis, Davenport, attorney and guardian ad litem for minor child.

Considered by Eisenhauer, P.J., and Potterfield and Tabor, JJ.

TABOR, J.

A father challenges the termination of his parental rights to his two-year-old son, C.H.-S. The father does not contest the statutory basis for severing the parent-child relationship. His only argument is that termination is not in his son's best interest under Iowa Code section 232.116(2) (2011). Because the father has not demonstrated an ability to provide for C.H.-S.'s needs or to ensure the child's safety, and because adoption by the child's maternal grandmother offers the best prospect for his long-term nurturing and growth, we affirm.

C.H.-S. was born in August 2008. His parents are Joseph and Tiffany. The Department of Human Services (DHS) investigated various allegations of abuse and neglect by the parents that occurred during the child's first year, including a founded incident involving a burn on the child's forearm reportedly caused by the father's use of fireworks. In October 2009, the DHS discovered that the child was exposed to cocaine while in his mother's custody. In November 2009, the parents voluntarily placed C.H.-S. in the care of his maternal grandmother, where he has remained throughout the case. The juvenile court adjudicated C.H.-S. as a child in need of assistance (CINA) on January 13, 2010. The order described the parents as "immature," "impulsive," and "self-centered." The court also pointed out that the parents lacked suitable housing and employment and both had unaddressed mental health and substance abuse issues.

From January to June 2010 the parents showed little interest in visiting their son, and their relationship with one another remained volatile. During the

summer of 2010, Tiffany and Joseph were more consistent in spending time with C.H.-S. But the guardian ad litem reported to the court in August 2010 that Joseph was "obsessive in his relationship with the mother. It appears that he sees his son, [C.H.-S.], mostly as a way to hold on to Tiffany."

The State filed a petition on January 27, 2011, seeking to terminate the parental rights of both Joseph and Tiffany. On March 17, 2011, the juvenile court held a termination hearing. Tiffany did not contest the termination action, but Joseph did. On March 23, 2011, the court issued its order terminating Joseph's parental rights. Joseph appeals.

Joseph contends the juvenile court erred by deciding it was in the child's best interests to go forward with termination of his parental rights. His argument is limited to the following:

> The father believes he is continuing to work toward reunification with the child. He has transportation issues which have limited his access to the child but wishes to be reunified with the child nevertheless.

In our de novo review, we conclude that termination of Joseph's parental rights furthers the best interests of C.H.-S. We reach this conclusion by applying the "the best-interest framework established in section 232.116(2)." *See In re P.L.*, 778 N.W.2d 33, 37 (Iowa 2010). Under that statutory framework, the primary considerations are "the child's safety," "the best placement for furthering the long-term nurturing and growth of the child," and "the physical, mental, and emotional condition and needs of the child." *Id.*

The juvenile court record does not show that Joseph has demonstrated a true commitment to his son's safety or basic needs. The juvenile court aptly

determined that "the father has assumed no responsibility to address the adjudicatory harm" to his child. The DHS did not know the father's whereabouts from October 2010 until the time of the hearing. The father did not respond to numerous attempts by the DHS to reach him. He saw his son only twice during that time span despite an open invitation from the child's grandmother for the parents to visit. Joseph did not develop a bond with his child; he testified that he was hurt when his son called him "Joe" rather than "daddy" during a trip to McDonald's on the day of the termination hearing. Joseph was not employed and relied on family members for his housing. He often did not have access to transportation. Joseph maintained an unhealthy and unstable relationship with the child's mother.

Joseph did not take advantage of services offered by the department. He declined parenting classes. He did not follow through with a recommendation that he participate in substance abuse treatment. He did not seek counseling to address his mental health issues. The father's declaration on appeal that he wishes to reunify with his son does not overcome his track record of inaction. *See In re Dameron*, 306 N.W.2d 743, 747 (Iowa 1981) (explaining that the court "cannot justify denying [children] a brighter future in the vague, if not fanciful, hope that their parents will someday soon attain . . . stability, sobriety and gainful employment, such as would afford the means to supply their children's needs").

By contrast, the maternal grandmother has provided the toddler with a stable, loving home life. The guardian ad litem reported that C.H.-S. was

"strongly bonded to his grandmother" after being in her care for fourteen months. The report continued:

> [C.H.-S.] has his own room, the home is safe and appropriate, his life has structure and routine. This home is free of domestic violence, verbal abuse, and unsafe visitors. [C.H.-S.] is clearly loved and cared for in his grandmother's home.

We agree with the juvenile court's decision that termination of Joseph's parental rights and the anticipated adoption of the child by his maternal grandmother will best serve the child's need for security and long-term nurturing and growth.

Finally, the father does not argue—and we do not find—that the factors listed in section 232.116(3) provide a reason not to terminate his parental rights.

AFFIRMED.