

IN THE COURT OF APPEALS OF IOWA

No. 2-980 / 12-1735
Filed November 15, 2012

**IN THE INTEREST OF T.W.D.-P.,
Minor Child,**

**S.D., Father,
Appellant.**

Appeal from the Iowa District Court for Carroll County, James A. McGlynn,
Associate Juvenile Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Joel Baxter of Wild, Baxter & Sand, P.C., Guthrie Center, for appellant-
father.

Robert Peterson, Carroll, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, John Werden, County Attorney, Tina Farrington, Assistant
County Attorney, for appellee-State.

Martha Sibbel of Law Office of Martha Sibbel, P.L.C., Carroll, for minor
child.

Considered by Eisenhauer, C.J., and Vogel and Vaitheswaran, JJ.

EISENHAUER, C.J.

A father appeals from the order terminating his parental rights to one of his children, contending the court abused its discretion in denying his attorney's request for a continuance when the father did not appear at the termination hearing. We affirm.

At the hearing, the father's attorney stated:

First of all, I would for the record request a continuance since my client is not present and the nature of the hearings for today.

We would not concur with the request to terminate [the father's] parental rights. . . .

For the reasons stated in my motion for reasonable efforts, [the father] would request more time and/or would support a guardianship with the maternal uncle to allow him to develop a relationship with [the child]. That is, [the child] has a right to know his father.

The attorney indicated he did not know why the father was not present, but he had mailed the father notice of the hearing and had tried to call the father earlier that day, but the number the father had given him was not in service.

The court denied the motion for continuance, stating:

Well, under the circumstances I really see no good grounds to delay permanency for this child any longer. We need to proceed today, and it's not in the child's best interests to continue this in the hope that maybe your client would show up for the next hearing.

When the court asked the attorney about the father's evidence concerning the various permanency options under Iowa Code section 232.104(2) (2011)—placing the child in the father's custody "today," giving the father six more months to achieve reunification, and establishing a guardianship—the attorney responded there would not be any evidence on the first option, but he would be presenting evidence to support deferring permanency for six months.

Following the hearing, the court terminated the father's parental rights under Iowa Code section 232.116(1)(e) and (f). The court found the father "unable to assume custody of the child now or at any time in the foreseeable future." The court found "no evidence that the father has any bona fide interest in having a relationship with the child." The court noted evidence the father "has failed to maintain any meaningful relationship with his other children."¹

Our review of orders terminating parental rights is *de novo*. *In re A.B.*, 815 N.W.2d 764, 773 (Iowa 2012). We review both the facts and the law and adjudicate rights anew on issues properly preserved and presented. *In re S.V.G.*, 496 N.W.2d 262, 263 (Iowa Ct. App. 1992); *In re D.L.*, 401 N.W.2d 201, 202 (Iowa Ct. App. 1986). We review the court's denial of a motion for a continuance for an abuse of discretion. *In re C.W.*, 554 N.W.2d 279, 281 (Iowa Ct. App. 1996). We reverse only if injustice will result to the party desiring a continuance. *Id.*

On appeal, the father does not challenge the statutory grounds for termination. Instead, he contends the court abused its discretion in denying his attorney's motion to continue the hearing when the father did not appear. At the time of the combined permanency/review/termination hearing, the child was five years old. The father had not seen the child since the child was just a few months old because of a no-contact order arising from the father's abuse of the mother. In the months preceding the hearing, the father began pursuing therapeutic visitation with the child, but after the father missed all but two

¹ The father has at least nineteen and possibly as many as twenty-six other children by various mothers.

scheduled preparatory meetings with the therapist and informed the therapist of his plans to move to Illinois, the child's therapist withdrew the recommendation for such visitation. The father has no relationship with the child and is not seeking reunification. He merely wants the child to know him.

We find no abuse of discretion in the court's denial of the motion to continue.

AFFIRMED.