

IN THE COURT OF APPEALS OF IOWA

No. 6-267 / 06-0279
Filed April 26, 2006

IN THE INTERST OF F.K., Minor Child,

J.F.K., Father,
Appellant.

Appeal from the Iowa District Court for Linn County, Robert E. Sosalla,
Judge.

A father appeals a juvenile court order terminating his parental rights.

AFFIRMED.

Carla Pearson of Glasson, Sole, McManus & Pearson, P.C., Cedar
Rapids, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Harold L. Denton, County Attorney, and Rebecca A. Belcher,
Assistant County Attorney, for appellee State.

Ross Hauser, Cedar Rapids, for mother.

Michael Lindeman of Lindeman Law Office, Cedar Rapids, guardian ad
litem for minor child.

Considered en banc.

PER CURIAM***I. Background Facts & Proceedings***

John and Tina are the parents of Faith, born in July 2000. John has a history of alcohol abuse, substance abuse, and domestic violence. Tina also has a history of substance abuse. In November 2004 allegations arose that Tina had used illegal drugs in the presence of Faith. Faith was adjudicated to be a child in need of assistance (CINA) under Iowa Code sections 232.2(6)(c)(2) (2005) (child is likely to suffer harm due to parent's failure to supervise) and (n) (parent's drug abuse results in child not receiving adequate care). John was in jail at the time of the adjudication on a charge of operating while intoxicated, fifth offense. Faith remained in the care of her mother while Tina attended a substance abuse treatment program.

Faith was removed from Tina's care in April 2005 after Tina left the treatment program and resumed using illegal drugs. Faith was placed in foster care. John was released from jail in August 2005. He obtained a job and an apartment. John was inconsistent in attending supervised visits. He had little contact with service providers. John continued to drink alcohol. He was arrested in November 2005 for assault causing injury after a dispute with his brother.

In November 2005, the State filed a petition seeking termination of the parents' rights. The juvenile court terminated John's parental rights under section 232.116(1)(l) (child CINA, parent has chronic substance abuse problem, and child cannot be returned within a reasonable time). The court found John's alcohol abuse and aggressive conduct would endanger Faith's physical and

mental well-being if she were returned to his care. Tina's parental rights were also terminated. John has appealed the termination of his parental rights.¹

II. Standard of Review

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primacy concern is the best interest of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Reasonable Efforts

John contends the State did not engage in reasonable efforts to reunite him with Faith. While the State has an obligation to make reasonable efforts, it is a parent's responsibility to demand services if they are not offered prior to the termination hearing. *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997). The record does not show that John requested different or additional services prior to the termination hearing.

John also claims the State's efforts in this case were not reasonable because he was only given a matter of months to work on his parental shortcomings. John was released from jail in August 2005. He admits he waited until November 2005, when it appeared Faith would not be returned to her mother, to take steps to become an alternative placement for her. We find the services in this case were not unreasonable.

IV. Best Interests

¹ Tina also appealed the termination of her parental rights, but her appeal was dismissed by the Iowa supreme court as untimely.

John asserts that termination of his parental rights is not in Faith's best interests. He believes he has a close bond with Faith that should have been considered as a mitigating factor. He relies upon section 232.116(3)(c), which provides that the juvenile court need not terminate parental rights based on "clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship." The juvenile court did not address John's argument based on section 232.116(3)(c), and we find this issue has not been preserved for our review. See *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994) (noting an issue not presented in the juvenile court may not be raised for the first time on appeal).

In any event, we find termination of John's parental rights is in Faith's best interests. John remains unable to provide a safe and stable home for Faith because of his alcohol abuse and aggressive behavior.

We affirm the decision of the juvenile court.

AFFIRMED.