

IN THE COURT OF APPEALS OF IOWA

No. 6-588 / 06-0915
Filed August 9, 2006

**IN THE INTEREST OF H.R.,
Minor Child,**

**D.L.R., Father,
Appellant.**

Appeal from the Iowa District Court for Cerro Gordo County, Gerald W. Magee, Associate Juvenile Judge.

D.L.R. appeals from the termination of his parental rights to H.R.

AFFIRMED.

F. David Eastman, Clear Lake, for appellant father.

Cynthia Foos, Mason City, for mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Gregg Rosenblatt, Assistant County Attorney, for appellee State.

Mark Young, Mason City, for minor child.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

ZIMMER, J.

Dennis appeals from a juvenile court order that terminated his parental rights to his daughter. Upon our de novo review, we affirm.

I. Background Facts & Proceedings

Dennis is the father of Hannah, who was born in May 2005.¹ He lives with Kristen, Hannah's mother.² The family came to the attention of the Iowa Department of Human Services (DHS) in June 2005 due to drug use in the home by both parents and allegations of chronic domestic abuse. Hannah was removed from her parents' custody on August 3, 2005, and adjudicated a child in need of assistance (CINA) on August 22, 2005.

Dennis exercised supervised visitation with Hannah; however, he never progressed to having unsupervised visitation with his daughter because he failed to complete drug screening. Between September 1, 2005, and December 5, 2005, Dennis was asked to complete thirty-two drug screens, but he failed to show up twenty-one times. He tested positive for drugs in three of the eleven drug screens he completed. Dennis completed several drug screens after January 1, 2006, and the results of those tests were negative.

Dennis began using methamphetamine at the age of thirteen or fourteen, and as a juvenile he was frequently in trouble with the law. Since he turned eighteen, Dennis has been arrested for drunk driving and driving while barred. Dennis's psychological evaluation, which he finally completed in January 2006

¹ At the time of the termination hearing, Dennis was nineteen years old.

² Kristen has another child who is in her father's custody. She is currently pregnant and expecting a child in August 2006.

after numerous missed appointments, described him as “an immature, impatient and easily frustrated individual” who “may react with irritability and actual aggressive behavior with seemingly little provocation.” The evaluation concluded his prognosis for significant behavior and personality change was guarded.

On January 19, 2006, the State filed a petition to terminate Dennis’s and Kristen’s parental rights. Following a hearing, Dennis’s and Kristen’s parental rights were terminated by the juvenile court in an order filed May 24, 2006. Dennis has appealed.³

II. Scope and Standards of Review

We review termination proceedings de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Clear and convincing evidence must support the grounds for termination. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Discussion

On appeal, Dennis asserts the DHS failed to make reasonable efforts to return Hannah to his care. His claims include the contentions that DHS’s failure to allow him every opportunity to pursue reunification constituted “a violation of [his] right to due process and further a violation of [his] right to privacy.” It does not appear that the juvenile court was asked to address any constitutional claims, and we find Dennis failed to preserve error on these issues. *See In re K.C.*, 660 N.W.2d 29, 38 (Iowa 2003) (holding an issue not presented to and decided by

³ Kristen has not appealed from the termination order. Her parental rights are not at issue in this appeal.

the juvenile court may not be raised on appeal for the first time even if it involves constitutional rights).

The juvenile court terminated Dennis's parental rights pursuant to Iowa Code section 232.116(1)(e) (2005) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child). Dennis does not dispute the requirements of section 232.116(1)(e) have been met. However, he argues DHS failed to make reasonable efforts to return Hannah to his care because when he requested increased visitation, DHS failed to grant his request despite his continuing negative drug screens. Upon our de novo review, we find no merit in the father's arguments.

Following the entry of a review order on December 19, 2005, Dennis was offered thirty-four visits with his daughter. He failed to show up for eighteen of the visits. Prior to the December order, Dennis missed at least thirteen scheduled visits. The record reveals the parents asked the court if relatives could supervise weekend visits. They were told their relatives could contact DHS to arrange supervised weekend visits; however, DHS was never contacted by relatives regarding additional visitation.

Dennis was discharged from substance abuse treatment in March 2006 because he failed to attend since January 2006. Dennis could have returned to treatment for an updated assessment, but he had failed to do so by the time of the termination hearing. Furthermore, although in-patient drug treatment was recommended, Dennis refused to follow the recommendation. The juvenile court found Dennis had not progressed to unsupervised visits because he failed to exercise consistent visitation, he failed to demonstrate he was no longer abusing

substances, and he failed to comply with drug treatment. We agree with the juvenile court's conclusion that DHS made reasonable efforts to return Hannah to Dennis's care, and Hannah cannot be safely returned to Dennis's custody.

The decision to terminate parental rights must reflect the child's best interests even when the statutory grounds for termination are met. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). We find serious concerns still exist regarding Dennis's stability and drug use, and his ability to provide adequate care for Hannah. Hannah has been removed from her parents' care for almost one year. Despite the provision of numerous services, Dennis remains unable to provide a safe and secure home for Hannah. When we consider a child's best interests, we look to his or her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Hannah should not have to wait any longer for Dennis to become a responsible parent. *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990). We find the termination of Dennis's parental rights is clearly in Hannah's best interests.

We affirm the juvenile court's decision to terminate Dennis's parental rights to Hannah.

AFFIRMED.