

IN THE COURT OF APPEALS OF IOWA

No. 6-797 / 06-1222
Filed October 11, 2006

IN THE INTEREST OF L.J.M., Minor Child,

N.W., Mother,
Appellant,

T.M., Father,
Appellant.

Appeal from the Iowa District Court for Clarke County, Peter A. Keller,
Judge.

A mother and father appeal from a juvenile court order terminating their
parental rights to a son. **AFFIRMED.**

Amanda M. Demichelis of Demichelis Law Firm, P.C., Chariton, for
appellant-mother.

William A. Eddy of Eddy Law Firm, Indianola, for appellant-father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Elisabeth S. Reynoldson, County Attorney, for appellee.

Patrick Greenwood, Lamoni, guardian ad litem for minor child.

Considered by Sackett, C.J., and Huitink and Vaitheswaran, JJ.

SACKETT, C.J.

Tony and Nicole have filed a petition on appeal challenging the juvenile court's July 19, 2006 decision terminating their parental rights to their son Lucas, who was born in April of 2004. Tony contends the State failed to prove Lucas could not be returned to his care. Nicole contends (1) she has maintained significant and meaningful contact with Lucas, (2) the State has failed to prove Lucas cannot be returned to her care, (3) reasonable efforts were not made to reunify the family, and (4) termination of Lucas's parental rights is not in his best interest. We affirm.

SCOPE OF REVIEW

Our review of termination cases is de novo. Iowa R. App. P. 6.4; *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000). We give weight to the district court's findings, especially concerning credibility, but are not bound by them. Iowa R. App. P. 6.14(6)(g). The State must prove the grounds for termination by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). "Clear and convincing evidence" means there are no serious or substantial doubts as to the correctness of conclusions of law drawn from the evidence. *C.B.*, 611 N.W.2d at 492.

BACKGROUND

Tony was born in 1985 and Nicole in 1987. They were living together in September of 2004 when Lucas was removed from their care. The removal came as the result of the child having experienced a number of injuries including broken ribs, a human bite, and bruises and abrasions. The photographs taken by the child protective worker at the time of the removal show a large abrasion on

the child's upper right cheek, a scab on his mid upper lip, a scratch on the right side of his nose, a scratch on his right temple, a circular bruise in the mid-parietal area, and a bruise on his right temple. The explanations for the injuries were questionable. The parents agreed to a finding that Lucas was a child in need of assistance.

Following removal, the parents had supervised visitations. A part of the supervisor's responsibilities was to work with the parents to develop better parenting skills. In addition the parents took parenting classes. After a period the visitations were increased and the supervision was limited. Nicole was consistent and exercised almost all visits provided and requested additional visitation. Tony's last visit with Lucas was May 2, 2005.

Visits were again supervised after the couple had problems and Nicole apparently threatened Tony with a knife and drove her car into his. By this time the parties were seeking other companions and Nicole testified that the altercation happened when she reacted after Tony brought a woman to her home. Nicole was charged with and pled guilty to assault and criminal mischief and was put on probation.

Throughout the period Lucas has been under the jurisdiction of the juvenile court, both Tony and Nicole have been in and out of relationships and have been in various living situations. At the time of the termination hearing Tony, who had just had his driver's license returned, was living with a woman in a dwelling supplied by her parents and was working part-time at a sale barn. The woman was expecting Tony's child. Nichole was living with a man. The record reflects little about this man other than that he is working for a tree service. A

termination petition was filed in February of 2006. It came on for hearing on May 31, 2006. On July 19, 2006, the district court filed an order terminating both parents' parental rights pursuant to Iowa Code section 232.116(1)(h) (2005), finding there was clear and convincing evidence that to return Lucas to his parents' custody would subject him to adjudicatory harm as defined in Iowa Code section 232.2(6).

TONY'S APPEAL

Tony contends the juvenile court erred in finding that Lucas could not be returned to his care. We disagree. Tony has done little to keep in contact with his son and basically ended any attempt at visitation after he and Nicole separated. Additionally, Tony is on parole and has shown little stability in his life. The mother of his expected child is eighteen years old, and while he claims they have an adequate home for Lucas, we disagree. We affirm the termination of Tony's parental rights.

NICOLE'S APPEAL

Nicole correctly argues that she has maintained contact with Lucas. She has taken advantage of scheduled visits and has made an effort to maintain a bond with her child. For this we commend her and give it careful consideration in assessing her claim.

Nicole also contends that reasonable efforts were not made to reunite the family. The State contends that error was not preserved on this issue. Apparently Nicole did ask for additional visitation, which she did not receive because of the unavailability of supervisors. Nicole was provided with

considerable parenting instructions. Reasonable efforts to reunite the family were made.

Nicole also contends the State has failed to show by clear and convincing evidence that Lucas cannot be returned to her care. At the time of the termination hearing Nicole had established a household with a male companion. There is nothing in the record to show that Lucas would be safe with him. Nicole has not shown stability or the ability to take Lucas at this time.

Nicole's last contention is that termination is not in Lucas's best interest. She argues that she and Lucas are bonded. The record would support a contrary finding. While we recognize that Nicole has enjoyed good visits with Lucas, the testimony of the visitation supervisors would indicate he has had stronger bonds with his two foster mothers. The State argues that Lucas's current foster mother wants to adopt him and we trust that the State and the guardian ad litem will assure that this goes forward. We cannot agree with Nicole's contention that termination is not in Lucas's best interest.

AFFIRMED.