

IN THE COURT OF APPEALS OF IOWA

No. 6-799 / 06-1258
Filed October 11, 2006

**IN THE INTEREST OF O.A.C., Jr.
Minor Child,**

**O.C., Sr., Father,
Appellant.**

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

A father appeals from the order terminating his parental rights.

AFFIRMED.

Mark Thompson of Thompson Law Office, P.L.C., Iowa City, for appellant
father.

Esther Dean, Muscatine, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, Gary Allison, County Attorney, and Korie Shippee, Assistant
County Attorney, for appellee State.

Neva Rittig-Baker of Baker Law Office, Muscatine, for minor child.

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

ZIMMER, J.

A father appeals from the termination of his parental rights to his son. Upon our de novo review, we affirm.

I. Background Facts & Proceedings

Oscar Sr. and Melissa are the parents of Oscar Jr., born in December 2003. The Iowa Department of Human Services (DHS) became involved in Oscar Jr.'s life immediately after his birth because of his mother's inability to provide appropriate care for her children. Melissa has a substance abuse problem and has exposed her children to harmful conditions by maintaining relationships plagued by domestic violence. The juvenile court adjudicated Oscar Jr. as a child in need of assistance (CINA) on February 18, 2004. Oscar Jr. spent approximately forty-five days in his mother's care in 2004. The rest of his life has been spent in family foster care.

Oscar Sr. spent seven years in prison for stabbing Melissa.¹ After he was discharged from prison for attempting to murder Melissa, the couple reunited, and Oscar Jr. was conceived. Oscar Sr. was incarcerated for approximately one year during the CINA proceedings. The father filed a motion for visitation, but he failed to appear on the date set for the hearing and never requested further visitation. The results of Oscar Sr.'s psychological evaluation completed on March 8, 2006, indicate "from 1994 to 2005, there were over 20 violence or substance abuse offenses against him ranging from attempted murder to OWI." Psychologist W. David McEchron diagnosed Oscar Sr. with generalized anxiety disorder, adjustment reaction with mixed emotions, and antisocial personality

¹ Melissa was his girlfriend at the time.

disorder. Dr. McEchron concluded if Oscar Sr. had to care for a toddler, it would put the child at risk, and the father may “be the biggest risk to the child’s environment.”

On May 4, 2006, the State filed a petition to terminate Oscar Sr.’s and Melissa’s parental rights. Melissa voluntarily consented to the termination of her parental rights. The juvenile court terminated the parental rights of the mother and father in an order filed July 20, 2006. Oscar Sr. has appealed.

II. Scope & Standards of Review

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the best interests of the child in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

III. Discussion

On appeal, Oscar Sr. contends clear and convincing evidence does not support the termination of his parental rights. He claims he never intended to abandon his son, he made reasonable efforts to resume care of the child, and any failure to make reasonable efforts was due to the failure of DHS to provide him with an opportunity to do so. We find no merit in any of these claims.

The juvenile court terminated Oscar Sr.’s parental rights pursuant to Iowa Code sections 232.116(1)(b) (2005) (abandonment); 232.116(1)(e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child); and 232.116(1)(h) (child is three or younger,

child CINA, removed from home for six of last twelve months, and child cannot be returned home).

At the time of the termination hearing, Oscar Jr. was almost thirty-one months old, had been adjudicated CINA, and had been removed from his parents' care since birth except for a brief forty-five-day placement with Melissa. Oscar Sr. only saw his son one time immediately after he was born, and he has been inconsistent in his efforts to gain visitation. He has an extensive criminal history which includes incidents of serious violence. He also has an extensive history of substance abuse. Oscar Sr.'s psychological evaluation indicates he is volatile and would be a risk to any child in his care. He was generally not communicative with DHS, failed to establish compliance with the case plan, and abandoned his child. We find clear and convincing evidence supports the juvenile court's decision to terminate the father's parental rights on all of the statutory grounds alleged by the State.

Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the 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). Oscar Sr. has been essentially absent for the entire life of his son. He did not make a serious effort to gain visitation or participate in DHS services. In addition, he has demonstrated he is not capable of serving as a custodial parent. Oscar Jr. is currently living with a foster family that is willing to adopt him. Although the child was born premature, under the care of his foster family, he has caught up developmentally and engages in age-

appropriate tasks. We agree with the juvenile court's finding that termination of Oscar Sr.'s parental rights is clearly in the child's best interests.

IV. Conclusion

We affirm the juvenile court's decision to terminate Oscar Sr.'s parental rights.

AFFIRMED.