

IN THE COURT OF APPEALS OF IOWA

No. 7-930 / 07-1615
Filed December 28, 2007

**IN THE INTEREST OF P.S.,
Minor Child,**

**R.A.C., Father,
Appellant.**

Appeal from the Iowa District Court for Lee County (South), Gary R. Nonenan, District Associate Judge.

A father appeals from a permanency review order in child in need of assistance proceedings. **AFFIRMED.**

Kevin Hobbs, West Des Moines, for appellant father.

Kendra Abfalter, Keokuk, for mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Michael Short, County Attorney, and David Andrusyk, Assistant County Attorney, for appellee State.

Laura Krehbiel, Donnellson, for minor child.

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

PER CURIAM

A father appeals from a permanency review order in child in need of assistance (CINA) proceedings. We affirm.

Richard and Natasha are the parents of P.S., born in February 2001. P.S. has resided with his maternal grandmother in Keokuk, Iowa, since 2004. Richard resides in Milwaukee, Wisconsin.

On December 3, 2004, P.S. was adjudicated CINA.¹ A permanency hearing was held on December 1, 2005, and January 5 and 31, 2006, during which Richard testified.² Following the hearing, the juvenile court ordered P.S. to remain in the care of his maternal grandmother. The court found reasonable efforts had been made to provide Richard with services. The court ordered him to complete a mental health evaluation and parental skills training. The court also ordered that visitation could occur between Richard and his son subject to the discretion of the Iowa Department of Human Services (Department).

Another permanency hearing was held on September 7, 2006. After considering the evidence presented at that hearing, the juvenile court again ruled that P.S. should continue living with his maternal grandmother and that visitation should continue with Richard according to Department's discretion. Richard

¹ During the initial CINA proceedings, Richard reported he had no job, no income, and no assets worth more than \$100. After P.S. was adjudicated CINA, Richard filed an appeal, but then allowed the time for appeal to expire. During June 2005 paternity tests confirmed Richard is P.S.'s biological father. One month later, the court ordered Richard to complete a home study. Richard filed another notice of appeal. Our supreme court dismissed the appeal on November 9, 2005.

² Richard provided long, confusing, and unresponsive answers to direct questions about his personal, educational, work, and criminal history. As a result, the juvenile court was unable to determine what Richard had been doing for the past twenty years.

appealed the permanency order. On November 30, 2006, a panel of this court affirmed the court's permanency ruling. In our ruling we stated,

Richard has received sufficient services from DHS. It is Richard himself who has failed to take advantage of them. Though he expresses a desire to have P.S. placed in his care, he provides nothing other than demands that we should do so simply because he is the child's biological father.

We also noted that "Richard has not demonstrated, even at supervised visitation, that he can perform even the most rudimentary of parenting activities."

In his current appeal, Richard challenges a permanency review order entered in this case following a permanency review hearing held on September 6, 2007. Following that hearing, the juvenile court ruled that P.S. should remain in the custody and guardianship of his maternal grandmother and that Richard should have visitation at the discretion of the Department, the guardian ad litem, and P.S.'s guardian and custodian. The court ordered that visitation shall take place only in Iowa and that it shall be authorized by the Department only if it is deemed in the best interests of the child by the Department, the guardian ad litem, and P.S.'s guardian and custodian.

We review permanency orders de novo. *In re K.C.*, 660 N.W.2d 29, 32 (Iowa 2003). We review both the facts and the law and adjudicate rights anew on the issues properly presented. *In re H.G.*, 601 N.W.2d 84, 85 (Iowa 1999). We give weight to the juvenile court's findings, but are not bound by them. *In re N.M.*, 528 N.W.2d 94, 96 (Iowa 1995). The best interests of the child are paramount to our decision. *Id.*

On appeal Richard reasserts the arguments he unsuccessfully made in his appeal of the permanency order issued by the juvenile court in November 2006.

He argues P.S.'s placement with his maternal grandmother is not in his son's best interests, the State failed to offer him adequate services, and the State has failed to prove that P.S. cannot be placed in Richard's home. Upon our review of the record, we find no merit in the father's arguments.

Richard did not appear personally at the permanency review hearing held September 6, 2007. Although Richard sent a letter notifying the court and his attorney he planned to appear by telephone, he did not explain why he would not be able to appear personally. The attorneys for the State and the natural mother as well as the guardian ad litem objected to Richard testifying at the hearing over the telephone. The court permitted Richard to listen to the proceedings over the telephone but did not allow him to testify.

Neither Richard nor his attorney, who was present at the hearing, offered any evidence at the most recent review hearing. The only witness who testified at the hearing was the social worker in this case. She recommended that no changes occur in the court's current permanency order. She further recommended that Richard participate in supervised visitation in Iowa and that he participate in parent skill development during those visits. She testified that P.S. was thriving in his current placement and he appears to be emotionally and physically healthy. Both the social worker and the guardian ad litem recommended that P.S. remain in his current custodial placement.

Nothing in the record before us indicates that Richard has taken any active steps in becoming a parent to his son. See *In re E.K.*, 568 N.W.2d 829, 831 (Iowa Ct. App. 1997) ("We must reasonably limit the time for parents to be in a position to assume care of their children because patience with parents can

soon translate into intolerable hardship for the children.”). We agree with the juvenile court that

“[i]n spite of having been given ample opportunities to participate in services and scheduled visitation [Richard] has done nothing of substance to advance the interests of his child in this case and throughout the last year has belligerently defied the efforts of the court and the Department to involve him in the life of [P.S.]”

Therefore, we affirm the court’s ruling continuing placement of P.S. with his maternal grandmother.

AFFIRMED.