

IN THE COURT OF APPEALS OF IOWA

No. 8-1071 / 08-1820
Filed January 22, 2009

**IN THE INTEREST OF C.E.E.,
Minor Child,**

**L.R.E., Father,
Appellant.**

Appeal from the Iowa District Court for Page County, Susan Larson Christensen, District Associate Judge.

A father appeals the termination of his parental rights to his child.

AFFIRMED.

C. Kenneth Whitacre of Swenson & Whitacre, Glenwood, for appellant father.

Charles Richards of Richards Law Office, Red Oak, for appellee mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Richard Davidson, County Attorney, and Carl Sonksen, Assistant County Attorney, for appellee State.

Vicki Danley, Sidney, for minor child.

Considered by Mahan, P.J., and Vaitheswaran and Potterfield, JJ.

VAITHESWARAN, J.

Lyle appeals the termination of his parental rights to his child, Cori, born in 1999.

I. Background Facts and Proceedings

Cori was removed from Lyle's care in June 2007 after he loaded a gun and threatened to shoot Cori, her mother, and himself. The State initiated child-in-need-of-assistance proceedings. The State also charged Lyle with child endangerment and aggravated assault. He was tried and convicted of domestic abuse assault and child endangerment and was incarcerated for 130 days.

In October 2007, the Department of Corrections placed Lyle on probation. At that point, the Department of Human Services began affording him supervised visits with Cori on Tuesdays and Thursdays of each week. The Department of Human Services also provided parent-skills training. Some of the department's efforts to modify Lyle's behavior were met with anger and fist pounding. At the same time, Cori expressed fear of her father. As a result, the district court discontinued supervised visits, suspended child welfare services, and issued a no-contact order for the protection of Cori and a service provider. In addition, Lyle's probation was revoked and he was returned to jail based on the same conduct that triggered the no-contact order.

The State petitioned to terminate Lyle's parental rights to Cori. Following a hearing, the district court granted the petition pursuant to Iowa Code sections 232.116(1)(e) (2007) (requiring proof of several elements including proof of the absence of significant and meaningful contact with the child) and (f) (requiring

proof of several elements including proof that child cannot be returned to parent's custody). This appeal followed.

II. Analysis

Lyle contends (A) his “constitutional rights were violated by the contract workers seeking and obtaining an ex-parte restraining order against [him],” (B) “the State actively interfered with [his] ability to address his treatment program and offered no assistance in obtaining his treatment and visitation,” and (C) the State failed to prove he “could not presently assume [his] parental role without harm to the child.” Our review of these issues is de novo. Iowa R. App. P. 6.4.

A. Constitutional Challenge to Ex-Parte Restraining Order. Lyle raised no constitutional challenges at or before the termination hearing. Therefore, we conclude the issue was not preserved for our review and was waived. *In re N.W.E.*, 564 N.W.2d 451, 455 (Iowa Ct. App. 1997) (“Under our rules of civil procedure, an issue which is not raised at the trial court may not be raised for the first time on appeal.”).

B. State Interference. Lyle’s second argument implicates the State’s obligation to make reasonable efforts toward reunification. See *In re C.B.*, 611 N.W.2d 489, 493 (Iowa 2000). The State satisfied this obligation. During the seven months that Lyle was not incarcerated, the department afforded him twice-weekly supervised visits with his daughter. Lyle acknowledged he attended “around 13, 14” visits. While a department employee conceded the department did not furnish anger management courses under its auspices, she noted that the Department of Corrections enrolled Lyle in batterer education classes.

The Department of Human Services only terminated its services to Lyle after the district court entered an order authorizing it to do so. That order followed an evidentiary hearing on Lyle's threatening behavior. After the department's obligation to provide services was eliminated, Lyle testified that he was to receive additional rehabilitation services through the Department of Corrections, including drug testing and a course to help him learn from his mistakes. There is no evidence that the department interfered with or impeded these services. For these reasons, we are not persuaded by Lyle's second challenge to the termination ruling.

C. Present Assumption of Care. The district court concluded Cori could not be returned to Lyle's custody. Lyle's own testimony supports this conclusion.

At the time of the termination hearing, Lyle was housed at a residential correctional facility. He acknowledged he had to accomplish many things in order to move out of the facility, including finding a place to live. When asked how long he thought it would take to accomplish these goals, he answered, "Maybe a year." Based on this testimony, we agree with the district court that Cori could not be returned to Lyle's custody.

We affirm the termination of Lyle's parental rights to Cori.

AFFIRMED.