

**IN THE COURT OF APPEALS OF IOWA**

No. 8-547 / 08-0780  
Filed August 13, 2008

**IN THE INTEREST OF T.M., A.M., K.M., K.M., Jr., and K.K.,  
Minor Children,**

**K.K.M., Sr., Father,  
Appellant.**

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Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,  
District Associate Judge.

A father appeals from the termination of his parental rights. **AFFIRMED.**

Don Schroeder, West Liberty, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, Janet Lyness, County Attorney, and Kristin Parks, Assistant  
County Attorney, for appellee State.

Ryan Tang, Cedar Rapids, for appellee mother.

W. Eric Nelson, Coralville, for minor children.

Considered by Miller, P.J., and Vaitheswaran and Eisenhauer, JJ.

**VAITHESWARAN, J.**

A father appeals the termination of his parental rights to five children: T.M., born in 1998; A.M., born in 1999; K.M., born in 2000; K.M. Jr., born in 2002; and K.M. born in 2003. He contends (1) the district court lacked subject matter jurisdiction and (2) the State did not make reasonable efforts toward reunification.

***I. Background Facts and Proceedings***

The Iowa Department of Human Services became involved with the family in 2001 when the oldest two children were denied critical care by an unknown person. Two years later, the Department determined that the children's mother abused a child not a subject of these proceedings.

In 2006, the children's mother notified Iowa authorities that their father may have sexually abused one of the children. Following an investigation, a founded child abuse report was issued against the father. The mother agreed to participate in services and drop-in visits.

Shortly thereafter, a Department employee went to the family's home and found no one there; the landlord informed her that the family had left town.

Three months later, the employee found the family in Illinois. She sought the assistance of local police to remove the children from the home and she accompanied them back to Iowa.

In February 2007, the district court issued a temporary removal order. The Court rejected the father's claim that the court lacked jurisdiction.

The five children were placed in Iowa foster homes, where they remained throughout the proceedings. Services were initiated for the children. All five children showed signs of physical abuse and educational delays.

Meanwhile, the children's father was jailed in Illinois for driving violations. When he was released from jail, he attempted to return to Iowa but had difficulty with his probation status. The Department facilitated supervised telephone contact between the father and children and tried to set up a sex abuse assessment for him.

In the summer of 2007, the children's father was jailed again. He remained incarcerated for several months.

In September 2007, the State applied for a waiver of its obligation to make reasonable efforts toward reunification. The district court granted the application stating, "additional services provided to these parents would not correct the conditions which led to the abuse of these children."

The State subsequently petitioned to terminate the father's parental rights. Following a hearing, the district court terminated his rights to all five children. The father appealed.

## ***II. Analysis***

### ***A. Jurisdiction***

The father argues the district court lacked subject matter jurisdiction because he and the children were living in Illinois when the child-in-need-of-assistance petition and temporary removal order were filed. In rejecting this jurisdictional challenge, the district court stated:

The parties do not dispute that the children were residing in Iowa at the time of the initial allegations set forth in State's exhibit #1. The court finds that the facts and circumstances as alleged all took place in Johnson County, Iowa and that the best interests and protection of these children requires the Court to exercise jurisdiction.

We concur in this reasoning. The father cites no statute that arguably prevented the district court from exercising jurisdiction in this matter. *Cf. In re E.A.*, 552 N.W.2d 135, 138-39 (Iowa 1996) (addressing and rejecting argument that Uniform Child Custody Jurisdiction Act rendered Iowa juvenile court without jurisdiction). He simply contends that “[t]he children did not have a significant connection to Iowa.” The record belies this assertion.

The family lived in Iowa for several years. The claimed incident giving rise to this proceeding occurred in Iowa, and both parents and all the children were in this State when it allegedly occurred. *See id.* at 138 (noting “[t]he alleged perpetrators and victims of sex abuse were living in Iowa at the time of the alleged abuse”). The investigation took place in this State. *Id.* The children were returned to Iowa before the February 2007 temporary removal order was entered. There was no evidence that any custody or child welfare actions were pending in Illinois. *Cf. id.* (noting Ohio courts assumed jurisdiction of child custody issues in a pending dissolution of marriage action in that state). Finally, the parents left Iowa to avoid the ramifications of the Iowa child abuse investigation. Based on this record, “we are confident that the Iowa juvenile court did have subject matter jurisdiction for the limited purpose of protecting the children from risks of harm arising during their presence in this state.” *Id.*

### ***B. Reasonable Efforts***

The State is obligated to make reasonable efforts towards reunification. *In re C.H.*, 652 N.W.2d 142, 147 (Iowa 2000). The father contends the State

failed to provide reasonable efforts to work with the parents in Illinois, who are financially unable [to] relocate to Iowa, and by failing to arrange a sex offender risk assessment for the father in

Iowa due to the assertion that treatment would be unsuccessful without an admission of guilt by the father.

The father is correct that the State may not require an admission of guilt as part of treatment because such a requirement may impinge on the right against self-incrimination guaranteed by the United States Constitution. *Id.* at 150. On this issue, the record reveals the following facts.

An Iowa evaluator approached by the Department to perform a sex offender assessment did not believe the father would be a good candidate for an assessment because he was unwilling to admit guilt. The Department employee handling the case also indicated treatment would be unsuccessful without an admission of guilt. She testified as follows:

I think the only service that came up as an issue was a sex offender risk assessment that [the father]—we were trying to get figured out with that, and the end result of that came with what I've been told with talking to people that provide those services is that if the person is not willing to accept or willing to admit to the sexual abuse, there's really no reason for doing them, so we never got that settled.

While these statements lend credence to the father's argument, they are not dispositive. The key question is whether the State required the father "to complete any particular sexual offender treatment program" or "disapproved of [the father's] participation in a treatment program that would not require an admission of guilt." *Id.*

The record is clear that the State did neither. The Department employee testified that the assessment with the Iowa evaluator failed to materialize not because the evaluator required an admission of guilt but because she was employed by the Iowa Department of Corrections and had a conflict of interest

generated by the father's probationary status. After learning of the conflict, the Department employee did not search for another evaluator who required an admission of guilt. Instead, she attempted to contact an Illinois evaluator requested by the father. Her phone messages were not returned. There is no indication that the Illinois evaluator would have required an admission of guilt as part of an assessment.

In the end, the State sought and obtained a waiver of the reasonable efforts requirement. See Iowa Code § 232.102(12). Therefore, no treatment impinging on the father's Fifth Amendment right against self-incrimination was required of the father.

We affirm the termination of the father's parental rights to the children listed above.

**AFFIRMED.**