

IN THE COURT OF APPEALS OF IOWA

No. 9-512 / 09-0779

Filed July 22, 2009

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

**S.E.C., Father,
Appellant.**

Appeal from the Iowa District Court for Muscatine County, Gary P. Strausser, District Associate Judge.

A father appeals from the termination of his parental rights to his minor child. **REVERSED.**

Tarek A. Khowassah of Holland & Anderson, L.L.P., Iowa City, for appellant father.

Joan Black, Iowa City, for appellee mother.

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

Raymond Tinnian, Kalona, for minor child.

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

POTTERFIELD, J.

Scott appeals from the termination of his parental rights to his daughter. Upon our de novo review, we reverse.

I. Background Facts and Proceedings.

S.C. was born in June 2007 to Scott and D.T.¹ Scott and D.T. were never married and their relationship is volatile. S.C. is D.T.'s fifth child and Scott's first.

In July 2007, the family was residing in Muscatine where Scott owned and operated a tattoo shop. On July 8, DHS initiated a child abuse investigation concerning S.C. Scott had been arrested for domestic abuse assault based upon D.T.'s allegation that he had squeezed her arm while she was holding S.C., which put infant S.C. at risk of being injured. D.T. told investigators that she was walking down the stairs with S.C. and Scott was pinching her on the arm and asking her where she was going with the child. D.T. asserted that there was a history of domestic violence between her and Scott. The Iowa Department of Human Services (DHS) was familiar with D.T. due to prior founded child abuse reports concerning her other children identifying D.T. as the perpetrator (denial of critical care due to marijuana usage, children tested positive for marijuana).² A no contact order issued preventing contact between Scott and D.T. However, DHS did not seek a removal order for S.C. When Scott was interviewed on July 10, he denied that there was any domestic violence or physical confrontations between him and D.T. The State later dismissed the charges against Scott.

¹ D.T. is not a party to this appeal.

² D.T.'s four older children are no longer in her care; two live with their father, and her parental rights to the other two were terminated in June 2007.

On July 16, 2007, DHS and three law enforcement officers made an unannounced visit to Scott's place of business attempting to locate D.T and S.C., to follow up on information that the family was together in violation of the no contact order. Scott and S.C. were present, D.T. was not. DHS worker, Dustin Krueger, found Scott resistant to voluntary services, but interacting appropriately with the infant. Krueger asked to visit Scott's residence (Scott indicated he was staying in an apartment with a friend), but Scott would not agree. However, Krueger left S.C. in Scott's care.

A month later, on August 17, 2007, the State filed a child in need of assistance (CINA) petition. The petition asserted:

[D.T.] has a significant history of substance abuse, her parental rights of two of her children have been terminated, and her current whereabouts are unknown. Further Scott has a significant criminal history and based on his statements it's the belief of the Department of Human Services that both Scott and [D.T.] are violating the current no contact order. There appears to be a significant history of domestic violence between Scott and [D.T.] and their continued contact without proper intervention is putting the child at risk of injury.

An adjudicatory hearing was set for September 27, 2007. Neither parent appeared for the September 27 hearing.

On September 28, 2007, the juvenile court entered an order noting that Scott had been personally served, but not within sufficient time to prepare for the hearing. The adjudicatory hearing was rescheduled for October 11, 2007. The court also ordered DHS to "locate the child and have personal contact with the child to assure the child's well-being prior to the adjudicatory hearing."

On October 2, 2007, a DHS worker spoke with Scott's mother in Rose Hill; his mother said she had not seen Scott, D.T., or S.C. for three weeks. The

juvenile court granted DHS's request for an ex parte removal order. On October 3, DHS and a deputy sheriff went to Scott's parents' Rose Hill address looking for S.C. Scott was present and stated S.C. and D.T. were not there. On October 4, law enforcement found S.C. with D.T. in a car being driven by Scott's father. S.C., then three months old, was placed in foster care.

On October 11, 2007, S.C. was adjudicated CINA based upon D.T.'s stipulation—through her attorney, as she was not personally present—that she used controlled substances with Scott in the presence of the child and while acting as a caretaker to S.C. Scott was present at the hearing, but unrepresented. The record does not reflect whether he objected or consented to the adjudication and D.T.'s admission regarding drug use. The court found the parents' relationship "unstable and includes incidents of domestic violence followed by recantations by the mother and reconciliation between the parents." The court found credible "[D.T.'s] statements that Scott has used controlled substances in the presence of the child[,]” although the statements were made by counsel. S.C.'s placement in foster care was continued. Her foster family resided in Washington, some forty miles from Scott's residence in Rose Hill.³

Visitation was offered to Scott and D.T. three times a week. Scott missed a few visits due to his work schedule or transportation issues, but he attended nine visits⁴ with his daughter in Washington between October 8th and November 15th, driving more than seven hundred miles. A November 2007 report by DHS

³ An October 21, 2007 report to the court noted that Scott took employment in Sioux City for the week of October 14th; however, he reported that he quit this job so he could have visits with S.C.

⁴ On two other occasions Scott arrived in Washington more than a half-hour late and did not get a visit with S.C.

social worker, Deb Schwitzer, noted that “Scott’s interactions with [S.C.] during the visits are very appropriate.” He was very emotional upon seeing S.C. and informed Ms. Schwitzer that he was depressed about S.C.’s removal. Ms. Schwitzer noted that Scott “has been rated as ‘extremely dangerous’ on the lethality scale.” Criminal domestic abuse charges and the no contact order apparently were dismissed in October 2007.

DHS recommended that Scott participate in parenting skill sessions, participate in a mental health evaluation and follow through with any recommendations of the evaluation, participate in a substance abuse evaluation and follow through with any recommendations of the evaluation, participate in anger management class, find full-time employment, and find stable housing.

On November 26, 2007, the court entered a dispositional order in which it adopted the case plan proposed by DHS report, except the court concluded Scott did not have to participate in anger management class, but “will work on issues of anger management and the effects of domestic violence on the children as part of parenting skills sessions.” The court approved S.C.’s continued placement in foster care in Washington, Iowa. A review hearing was scheduled for February 28, 2008.

Scott completed a mental health evaluation on December 27, 2007. Evaluator, Mary Boles, found Scott suffered from situational depression and might benefit from anti-depression medication; she thus recommended that he see Dr. Kevin Sterk, a psychiatrist, for a psychiatric/medication evaluation. She also recommended that Scott have individual therapy every two weeks or attend a weekly men’s group.

In a February 2008 report, DHS social worker Hannah Chesmore-Potts indicated that visitation with then eight-month-old S.C. continued to be offered to the parents three times per week. She noted:

[S.C.] appears to enjoy her time with her mom and dad which is evidenced by: her smiles, her giggles, her napping and her eating. Her parents lovingly and gently hold her and walk with her during visitation. They provide [her] with special toys, blankets and books during visitation. They have also grown to learn what foods and snacks [S.C.] enjoys and prepare these items for her visit. . . . When [S.C.'s] parents attend supervised visitation they are nurturing and thoughtful.

However, Ms. Chesmore-Potts noted that attendance at visitation by the parents had not been consistent. She stated Scott reported that financial problems were the main cause of his lack of attendance. He was provided "referrals and suggestions to assist with his current financial situation" including community resources that "provide transportation, financial assistance and employment counseling." Ms. Chesmore-Potts wrote that Scott had "not been agreeable to referrals and suggestions provided to support his participation in visitation with [S.C.]." Scott attended thirteen visits with his child in the three months between November 20, 2007 and February 11, 2008, driving more than 1,000 miles.

With regard to his mental health evaluation, Ms. Chesmore-Potts wrote that Scott "reports he does not need a therapeutic intervention." She also reported that Scott had yet to complete his substance abuse evaluation, even though it had been twice scheduled. Scott explained that the cancellations were due to financial reasons and perhaps some weather-related travel difficulties. DHS's recommendations for Scott continued as before.

Scott submitted to a substance abuse evaluation on February 18, 2008. The evaluator obtained a history from Scott with the information that Scott last used marijuana in 2005 and last drank in June 2007—the date of his arrest for domestic abuse assault. “The last he drank he had four beers at home and was involved in a domestic violence charge that was dropped.” Based on the interview, the evaluator found Scott “is not recommended for substance abuse treatment. His history does include alcohol abuse and marijuana abuse but both drugs appear to be in remission.” Scott submitted a report to the court, with the substance abuse evaluation attached, in which he stated that he had had two drug tests (November and December 2007), both of which tested negative for illegal substances. He asked that the court order a trial home placement or transfer of S.C.’s placement to a more convenient location.

A review order was filed on March 19, 2008. The court granted DHS’s request for a second psychological evaluation. The court denied the request to move S.C., finding the current foster home “appropriately located given the current residence of the child’s mother and father.” The court wrote:

Scott [] complains he has to travel a significant distance resulting in an enormous financial burden which impedes his ability to attend all available visits. However, [Scott] rejects the idea of the child being transported for visits to him or to some halfway point. The Court recognizes that inclement weather has caused [him] to miss some visits. However, he has missed too many visits for the Court to grant his request for a trial home visit or unsupervised visitation. [Scott] must consistently attend visits for at least a month and demonstrate appropriate parenting during that time frame before the Court is willing to order partially-supervised visits. Given the Court’s conclusion that partially supervised visits are not yet appropriate, his request to return the child to his home or to his parents’ home is rejected.

The court also noted that employment and visiting one's child are not mutually exclusive. It informed Scott that "[h]e must become more flexible and allow the child to be either brought halfway to him or all the way to him on some occasions if finances remain a factor so that visitation may progress."

A May 27, 2008 DHS report to the court indicated that, following a family team meeting on April 8, 2008, Scott had attended all available visits with S.C. (one four-hour visit at his parents' home and one two-hour visit in a community setting).

His visitation is described as a positive experience for [S.C.] He is loving and nurturing with her during visitation. The Department has also supported the involvement of Scott's immediate family in visitation. Since the Family Team Meeting, Scott has missed only one session for parenting skill building and education due to a scheduling mix-up. He has been more proactive during skill-building and educational sessions. These sessions are offered before and/or after his visitation in Washington. This renewed desire to engage in services is a hopeful change in Scott's participation with the case plan.

The completion of the psychological re-evaluation continues to be a contentious issue for Scott. . . .

Scott and [D.T.] have greatly improved their attendance in visitation and their attendance in services The parents provide [S.C.] with a very positive visitation experience and extended, paternal family members are providing healthy support by allowing visitation to take place in their home. There is on-going concern about the parents' inability and/or refusal to participate in court ordered evaluations in a timely manner, the parents' unstable relationship, and the parents' continued instability with housing and employment. The parents' lack of timeliness in completing evaluations and in establishing stability is a barrier to reunification. [S.C.] is 11 months old. She has been placed in out of home care for 7.5 months. This social worker is unprepared to recommend S.C. be returned to the care of her parents until the parents: complete their court ordered evaluation(s), subsequently engage in recommended services from the evaluation(s), and demonstrate a pattern of stability in their living arrangements and in their relationship.

Ms. Chesmore-Potts recommended that Scott participate in parenting skills sessions, obtain a psychological re-evaluation and follow through with any recommendations, pursue full-time employment, and find safe, stable housing.

On June 5, 2008, six months after his first evaluation and diagnosis of situational depression, Scott completed a second psychological evaluation with Dr. W. David McEchron, a psychologist,

[Testing] does suggest that Scott may act out on angry, hostile feelings. At this time, he is under a great deal of distress, which is bound to influence his day-to-day and moment-to-moment behavior. Anger has been a problem for him in the past and continues to be. He also recognizes that he has difficulty with problem solving and coping with new life situations.

At this time, Scott's evaluation does not demonstrate the presence of serious mental health and emotional disturbance. This does not preclude, however, the presence of significant personality patterns that must be addressed. Scott's primary problems are his personality characteristics which include distrust of others that borders on paranoia, poor control over his anger, and excessive worry.

.....
Medication for Scott is not recommended. Further referral for drug and alcohol assessment cannot be made on the basis of these test results. It is strongly believed, however, that Scott does need ongoing psychological care. He needs the guidance of a therapist he can trust who will assist him now and in the future. Clearly, from DHS reports, his family has judgment problems and does not appear to be a source of consultation that would help him solve life's problems in a practical and healthy manner. He must seek this assistance from someone. He must also put the past behind him and continue to focus on the best interest of his child.

After a review hearing, which was held on June 26, 2008, the juvenile court ordered Scott to comply with Dr. McEchron's recommendation that he receive ongoing psychological care. The court noted that Scott had consistently attended visits for the last two months and that they had gone well; Scott was to continue to attend visits. The court also noted that Scott had been arrested for

operating a motor vehicle while intoxicated⁵ and possession of a controlled substance (marijuana); the court ordered Scott to complete a new substance abuse evaluation and to comply with any recommendations. S.C. was to remain in foster care.

On June 27 Scott spoke with DHS workers, Ms. Chesmore-Potts and Ms. Jackie Davis, and asked that future visits occur at his parents' home because he was going to lose his driver's license. The workers agreed to bring S.C. to two visits per week—one two-hour and one four-hour visit—both to occur at his parents' Rose Hill home. Visits proceeded as arranged and went well from June through September at the home of Scott's father, which Ms. Chesmore-Potts described as "a safe, warm and caring environment". Scott and D.T. lived in a smaller house next to his father's home that needed repair before it would be safe for the child, but Scott and his father planned that Scott and S.C. would reside with Scott's parents when S.C. was returned to their care.

A September 2008 court report from Ms. Chesmore-Potts notes that during the review period:

The parents are nurturing and thoughtful during visitation. They are involved in caring for their daughter during visits: changing diapers, preparing meals and feeding, bathing and dressing, and playing. [The parents] do not display problematic behavior in the mechanics of their parenting during visitation. During this review period, [the family has] demonstrated an on-going bond.

However, Ms. Chesmore-Potts indicated that Scott had only "minimally participated" in services: Scott was not working and reported he could not work and have visits with his daughter and go to appointments; he had not followed up

⁵ His blood alcohol concentration was .163%.

with recommended psychological counseling—although he had appointments scheduled, he blamed D.T. for his failure to attend; he denied having substance abuse problems despite his recent arrest; and he had missed three scheduled chemical dependency evaluations.⁶ She also indicated a concern about the stability of the home environment, noting the many separations Scott and D.T. experienced and D.T.'s reports of not feeling safe in Rose Hill. Ms. Chesmore-Potts recommended that the plan change from reunification to termination of parental rights.

The guardian ad litem (GAL) also recommended termination in his September 17, 2008 report to the court:

Scott [] steadfastly refused to find steady employment and housing, continues to live largely on the charity of close family members who are resentful of this, persists in reckless and defiant conduct and when the consequences of his conduct become manifest he reacts by blaming others for his problems, or giving dishonest statements to persons involved with the case, or attempts to manipulate or bully the caseworker or service providers. [Scott] has set up three different dates in August and September to obtain a Substance Abuse Evaluation and missed all three of them.

[Scott] has made no secret that he considers the DHS recommendations irrelevant to his parenting abilities, frequently accuses anyone involved with services of being “out to get him,” and recently made generalized threats of violence to the caseworker and the service provider involved with his case, i.e.: “if they try to take away my rights I will become the monster that they say I am.”

. . . . The contrition he expressed to the GAL after spending his daughter's first birthday in jail was fleeting and immediately replaced by his previous attitude of anger and defiance toward caseworkers and service providers.

It is clear during visits that Scott is loving and appropriate with his daughter, clearly loves her and cares about her, but is constitutionally unable to address the chaotic circumstances that gave rise to the initial adjudication.

⁶ Ms. Davis's September 4, 2008 notes indicate that she smelled marijuana when Scott and D.T. exited their house to go to Scott's parents' house for a visit with S.C.

A permanency hearing was held on September 18, 2008. DHS workers recommended termination of parental rights due to the parents' perceived lack of progress. Ms. Chesmore-Potts and Ms. Davis testified that D.T. told them domestic violence continued in the relationship. They also testified that Scott confronted Ms. Davis when he learned she was supporting a recommendation of termination of parental rights. Ms. Davis testified that she no longer felt safe with visits at the grandparents' home and refused to supervise future visits there. Ms. Davis testified that D.T. stated she and Scott had been using drugs. D.T. then testified that she did not in fact tell the workers about violence in the home or that they were using drugs.

After the September 18 hearing, visitation was moved from Scott's family home back to Washington, Iowa, based on Ms. Davis's refusal to supervise visits in Rose Hill.

On September 29, 2008, Scott's attorney wrote to the court that Scott had met with a mental health worker and arranged to have ongoing counseling and had obtained a substance abuse evaluation. The substance abuse evaluation recommended a twenty-eight day inpatient treatment program.

A permanency order was filed on October 28, 2008, in which the juvenile court wrote:

The parents have complied with visitation. The visits go well and it is clear the parents are bonded to the child and the child to the parents. The parents' behavior is generally appropriate toward the child during visits. However, visitation has not progressed to unsupervised. . . .

. . . .
. . . . It is clear Ms. Davis [a service provider] no longer feels safe at [Scott's] residence. It is difficult to believe the child would

be safe in the home when adults do not feel safe [Scott's] behavior is the result of more than the recommendation that the Department seek termination of parental rights. [Scott] completed a mental health evaluation which stated "anger has been a problem for him in the past and continues to be." . . .

. . . Based upon the lack of progress the parents have made while this case is pending, it is unlikely that they will resolve the issues in their relationship, gain employment, maintain stable housing, comply with substance abuse or mental health treatment. Thus, grant of additional time is not appropriate.

The court ordered a petition to terminate parental rights be filed and, for the first time in the pendency of the case, ordered the parents to comply with random drug testing at least twice a month.

Scott was told he did not qualify for in-patient treatment when he attempted to sign in on October 20 due to his report that he had not used marijuana for two weeks. It was recommended that he complete intensive out-patient treatment. Scott began to participate in out-patient treatment with Angela Andeway, who recommended weekly one-on-one treatment sessions. Scott provided three negative UA's, two random UA's on November 1⁷ and November 26, 2008; and another UA on January 5, 2009.

In November Scott attended one session of a ten-week reasoning skills group that had been recommended by his mental health counselor.

After November 7, 2008, Scott did not attend scheduled visits. After the permanency hearing in September, Scott refused to speak with Ms. Davis and his requests for a new worker were denied. He expressed confusion about DHS's recommendation to terminate his rights having always been told that visits were going well; he also expressed hurt and anger at DHS workers concerning

⁷ Angela Andeway, a certified drug and alcohol counselor for the State of Iowa, testified at the termination trial that marijuana stays in a person's system for thirty days.

their testimony at the permanency hearing. In December Scott asked that visits again take place at his parents' home. Workers would not provide in-home visits due to stated feelings of intimidation.

Following the trial on the petition to terminate parental rights, which was held on January 12, 16, and 21, 2009, the juvenile court terminated Scott's parental rights. In the April 13, 2009 termination order the court found the evidence was "overwhelming that [Scott] was attempting to conceal the child from the Department" at the beginning of these CINA adjudication proceedings. It further found "[t]he parents' relationship was unstable and includes incidents of domestic violence followed by recantations by the mother and reconciliation between the parents" and "the instability of the relationship affects the care provided to the child." The court found D.T.'s statements that Scott used controlled substances in the presence of the child were credible. Scott's cooperation with services other than parenting sessions and visitation had been "problematic." The court noted Scott's visitation with S.C. was inconsistent between October 2007 and March 2008, and consistent from a team meeting on April 8 through November 2008. However, between November 7 and January 2, 2009, Scott did not participate in visitation. The court noted the record was "replete with examples of [Scott's] failures to engage in the other services offered" including his failure to follow through with psychological care and his failure to acknowledge domestic abuse.

The relationship is filled with controlling, aggressive and violent behavior perpetrated by [Scott]. The relationship has all the classic earmarks of domestic violence The relationship is [in] the same position as when this case started. The likelihood of the pattern repeating and future violence between the two is extremely

high. If replaced in the family home the child would be subject to adjudicatory harm including a failure to provide appropriate supervision due to domestic violence in the presence of the child jeopardizing the child's safety. The likelihood of this occurring is very high in this case. In addition, the situation is further exacerbated due to substance abuse by the parents.

The adjudicatory harm in this case included [Scott's] use of controlled substances in the presence of the child while acting as a caretaker for the child. [Scott] does not see a problem with the use of marijuana. . . . In addition, he has not been honest regarding his use of marijuana and alcohol.

The court noted that Scott testified he stopped at a bar and drank after attending one session of the termination trial. The court concluded Scott had a severe and chronic substance abuse problem and termination was thus appropriate under Iowa Code section 232.116(1)(f) (2009) (child adjudicated CINA, parent has severe, chronic substance abuse problem and presents a danger to self or others as evidenced by prior acts, clear and convincing evidence that parent's prognosis indicates child will not be able to be returned within reasonable time). The court also concluded termination was appropriate under section 232.116(1)(h) (child under three years of age, adjudicated CINA, removed from parent's care for at least six months, and cannot safely be returned). The court rejected the ground that Scott had failed to maintain significant contact with S.C. See Iowa Code § 232.116(1)(e).

Scott moved to amend the court's findings and conclusions, and to reconsider, or grant a new trial. In support of his motion for new trial, Scott offered the March 24, 2009 report of the foster care review board that expressed concern that DHS had not adequately informed the parents of expectations. The court denied the post-trial motions.

Scott appeals. He argues the juvenile court should have granted his motion to continue the termination hearing. In the alternative, he contends the court erred in finding that: (1) reasonable reunification efforts had been made; (2) there was clear and convincing evidence that S.C. could not be returned to Scott's custody; and (3) Scott had a severe, chronic substance abuse problem. Scott also argues the court abused its discretion in not placing S.C. with Scott's father. Finally, Scott complains that the court erred in denying his motion for a new trial.

II. Scope and Standards of Review.

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). Although we give weight to the juvenile court's findings of fact, we are not bound by them. *In re K.N.*, 625 N.W.2d 731, 733 (Iowa 2001). The grounds for termination must be proved by clear and convincing evidence. *In re T.P.*, 757 N.W.2d 267, 269 (Iowa Ct. App. 2008). Evidence is clear and convincing when it leaves no serious or substantial doubt about the correctness of the conclusion drawn from it. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). Our primary concern in termination cases is the best interests of the child. *In re A.S.*, 743 N.W.2d 865, 867 (Iowa Ct. App. 2007).

III. Analysis.

Upon our de novo review of the record we are not persuaded that there is clear and convincing evidence supporting the termination of Scott's parental rights. D.T. had been the subject of prior involvement with DHS and continued to be the focus of DHS's efforts in this adjudication. Her claimed reports of domestic violence and substance use are the bases upon which this CINA

adjudication proceeded and the focus for all services recommended thereafter. In fact, the court adjudicated S.C. a CINA based upon D.T.'s claims, finding them credible even though she was not at the adjudication hearing. In a subsequent hearing where D.T. actually testified, the juvenile court specifically found that she was not credible in her testimony. Her mental health issues⁸ would seem to negate her credibility. Yet, DHS workers and the court repeatedly relied upon D.T.'s claims that she and Scott smoked marijuana in the presence of her children and that Scott was violent as grounds for recommendations for Scott and for termination of his parental rights.

While we recognize that Scott was resistant to obtaining substance abuse evaluations, those evaluations did not indicate that he had a "severe, chronic substance abuse problem" that would justify termination under section 232.116(1)(l).⁹ Rather, Scott had provided clean UAs for at least three months prior to the termination hearing. Drug tests had not been ordered until that point

⁸ In August 2008 D.T. participated in a psychological evaluation with Dr. McEchron. He reported that while D.T. has "serious mental health problems, and is undoubtedly in a great deal of distress at this time, she is not as flagrantly psychotic as she presents herself to be [on a psychological] test." D.T. was diagnosed with major depressive disorder, panic disorder without agoraphobia, polysubstance abuse in partial remission, and personality disorder with antisocial, dependent, and schizotypal characteristics. Dr. McEchron recommended further evaluation, medication, and psychiatric referral.

⁹ Section 232.116(1)(l) provides for termination of parental rights if the court finds all of the following:

- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.
- (2) The parent has a severe, chronic substance abuse problem, and presents a danger to self or others as evidenced by prior acts.
- (3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

in the case. Although Scott drove under the influence of alcohol during the pendency of the case, and drank at a bar following a day in court, the record does not contain clear and convincing evidence of a chronic substance abuse problem.

His visits with S.C. were consistently found to be appropriate and he was described as caring and nurturing. Although it is worrisome that Scott failed to visit the child following the about-face of the recommendation of the Department, it is not surprising that Scott expressed frustration with the recommendation that his parental rights be terminated.

Scott contends the State did not engage in reasonable efforts to reunite him with the child. DHS has an obligation to make reasonable efforts toward reunification, but a parent has an equal obligation to demand other, different, or additional services prior to the termination hearing. *In re A.A.G.*, 708 N.W.2d 85, 91 (Iowa Ct. App. 2005). Scott repeatedly requested additional services.

Scott closed his tattoo business and moved to his family's home in Rose Hill after S.C. had been removed from his care. Scott's parents' home was the location of visitations and DHS did not voice concerns about its appropriateness for S.C. Scott was in the process of renovating a house owned by his father for his residence. Workers viewed the house and did not find it objectionable. He continuously resided in Rose Hill for more than one year, but was criticized for not having stable housing. Because of Rose Hill's distance from services, transportation was always an obstacle to both visitations and services. The record indicates that D.T. was repeatedly offered and given rides by DHS workers; however, Scott was required to obtain his own transportation and was

criticized when he was unable to do so. Scott was also criticized for not finding full-time employment even though it was noted that Rose Hill offered no employment opportunities.¹⁰

We join the foster care review board's concern that "the expectations of the parents were not clarified by DHS and that there were not sufficient meetings to outline the steps that parents needed to take to achieve reunification." Workers did not address their asserted intimidation with Scott. They did not provide guidance as to what types of behavior were inappropriate or unacceptable. We also note that workers' expressed feelings of insecurity around Scott appear somewhat pretextual.¹¹ In light of the obvious bonds between father and daughter and the history of Scott's care during visitations, we cannot conclude the evidence "leaves no serious or substantial doubt about the correctness of the conclusion drawn from it." *In re D.D.*, 653 N.W.2d at 361 (citations omitted). We thus reverse the order terminating Scott's parental rights.

REVERSED.

¹⁰ Scott did pursue some unconventional earning opportunities: he cut and sold firewood by the truckload, he planted a garden and intended to sell vegetables he would harvest, he had applied for and received a small business grant to have a mobile tattoo shop (this became a problem when he lost his license), and his father was investigating the purchase of a building where Scott could open a tattoo shop to which his father would provide transportation.

¹¹ Ms. Davis claimed to feel unsafe at Rose Hill, but chose to take a trainee to that location.