IN THE COURT OF APPEALS OF IOWA

No. 1-339 / 11-0407
Filed May 11, 2011

IN THE INTEREST OF C.L.,
Minor Child,

J.F.S., Father,
Appellant.

Appeal from the Iowa District Court for Clinton County, Phillip J. Tabor, District Associate Judge.

A father appeals the district court's ruling terminating his parental rights. **AFFIRMED.**

Adam W. Blank of Pillers and Richmond, DeWitt, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Mike Wolf, County Attorney, and Cheryl J. Newport, Assistant County Attorney, for appellee State.

Neill A. Kroeger, Le Claire, for appellee mother.

Lucy H. Valainis, Davenport, attorney and guardian ad litem for minor child.

Considered by Vogel, P.J., Vaitheswaran, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

VOGEL, P.J.

Jeramy appeals the district court's order terminating his parental rights to his son, C.L. (born May 2010).[1] The district court terminated Jeramy's rights under Iowa Code sections 232.116(1)(d) (2009) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services), (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), and (h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). We affirm.

Our review of termination of parental rights cases is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). When the district court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the sections cited by the district court in order to affirm. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

Jeramy appeals, asserting the State failed to prove by clear and convincing evidence any of the grounds the district court terminated under, specifically sections 232.116(1)(d), (e), and (h). C.L. was removed from his mother's care shortly after birth, following a positive meconium test for marijuana. Jeramy was confirmed as the biological father of C.L. in July 2010. However, because he was the putative father, he had been encouraged to participate in services provided by DHS since C.L.'s birth.

[1] The parental rights of the biological mother of C.L. were also terminated and she does not appeal.

Jeramy has a criminal history including assault, burglary, domestic assault, and violation of a no contact order. The Iowa Department of Human Services (DHS) established a case plan for Jeramy, which was adopted by the court, in order for him to work toward reunification. This included meetings with the family safety, risk, and permanency services worker; a psychological and mental health evaluation; parenting classes and supervised visitation. Jeramy also agreed to search for employment, pursue a GED, and submit to random drug testing. At a permanency review hearing in November 2010, the court granted Jeramy two additional months to work towards reunification. However, on that court date, he also tested positive for marijuana.

While Jeramy did attend weekly supervised visitations, as well as two of the four required appointments for his psychological evaluation, he failed to complete the evaluation, begin parenting classes, obtain his GED or a job, or progress past supervised visits. DHS worker Amy Johnson testified that Jeramy participated in a substance abuse evaluation, but did not follow through with treatment. Each of these failures were of concern to her, as they reflected little if any progress towards Jeramy's ability to safely parent C.L. The district court found,

> the father has not preformed any of the duties required by the Case Plan other than he has attended visitation. It is clear from the evidence and also from the Court's observation of the father during the hearing where he spent most of the hearing with his head down, flashing red-faced anger whenever questions about him were put to the witnesses, that he is not in a position to parent this child at this time.

Even though Jeramy failed to participate in most of the services offered, he now asserts reasonable efforts were not made to return C.L. to his care.

However, the record reflects that he failed to request additional services.[2] *See S.R.*, 600 N.W.2d at 65 (stating when a parent fails to demand services other than those provided, the issue of whether the services provided were adequate has not been preserved for appellate review). Further, the record shows he was provided reasonable services, but failed to put forth the effort to work with service providers such that reunification with C.L. would be possible. We agree with the district court's conclusion that Jeramy remains unable to parent C.L. and that clear and convincing evidence supports termination under 232.116(1)(h).

Jeramy also asserts termination of his parental rights is not in the C.L.'s best interest. Even if a statutory ground for termination is met, a decision to terminate must still be in the best interest of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child. *Id.* Prior to the hearing, the district court granted Jeramy two additional months to work towards reunification, yet he remained largely non-compliant with services offered and failed to work on objectives contained in the case plan. Therefore, the district court was correct in concluding Jeramy was not prepared to parent C.L., and that C.L. is in need of a permanent home. *In re J.E.*, 723 N.W.2d at 801 (Cady, J., concurring specially) ("A child's safety and the

[2] In his reasonable efforts argument, Jeremy also contends that a delay in considering placement of C.L. with his mother, step-father, or grandmother was unreasonable. At the time of trial, C.L. was living with a maternal great aunt, who was not a long-term placement option, and a home study on other relatives had been completed. DHS worker Johnson testified that relative placement was still an option, depending on the outcome of the case. The district court directed DHS to submit a case permanency plan and to report back to the court within forty-five days of the termination order.

need for a permanent home are now the primary concerns when determining a child's best interests.") We conclude termination of Jeramy's parental rights was in C.L.'s best interest as set forth under the factors in section 232.116(2).

AFFIRMED.