IN THE COURT OF APPEALS OF IOWA

No. 1-615 / 11-0805
Filed August 24, 2011

IN THE INTEREST OF T.S. and L.S.,
Minor Children,

J.S., Father,
Appellant.

Appeal from the Iowa District Court for Decatur County, John D. Lloyd, Judge.

A father appeals from the order terminating his parental rights. **AFFIRMED.**

Patrick W. Greenwood, Lamoni, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Lisa Hynden Jeanes, County Attorney, for appellee State.

Marc Elcock, Osceola, for minor children.

Considered by Eisenhauer, P.J., and Doyle and Mullins, JJ.

DOYLE, J.

A father appeals from the order terminating his parental rights to his children. He claims the State failed to prove the ground for termination by clear and convincing evidence. He also contends the State failed to make reasonable efforts to reunify him with his children. We review his claims de novo. *See In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The father's parental rights were terminated pursuant to Iowa Code section 232.116(1)(f) (2009). To prove this ground for termination, the State must prove by clear and convincing evidence each of the following:

> (1) The child is four years of age or older.
> (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
> (3) The child has been removed from the physical custody of the child's parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.
> (4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

Iowa Code § 232.116(1)(f). The father does not dispute the State has proved the first three elements under this section. Instead he contends the State failed to prove the children cannot be returned to his care.

The family first came to the attention of the Iowa Department of Human Services (Department) in 2006 when it was reported the father had sexually abused the children's older half-sibling. The father last lived with the children in March 2006. He ultimately pled guilty to two counts of lascivious acts with a child in April 2007 and was sentenced in June 2007 to ten years' imprisonment. The children remained in the mother's care, and the case was later closed.

The children again came to the attention of the Department in May 2009 after it was reported the children had been sexually abused by the mother's paramour. The children were removed from the mother's care and have remained in family foster care since August 2009. The State filed a petition to terminate the parents' parental rights in January 2011. The mother voluntarily consented to the termination of her parental rights.

At the time of the May 2011 termination hearing, the father remained incarcerated with an expected release date of January 2012. The father admitted he had not been a parent in five years but stated he wished to assume care of the children in the future. He testified that he had the possibility of being paroled in July 2011, and if he was, the soonest the children could be returned to his custody would be August 1, 2011.

It is often said in our termination cases that the law requires a "full measure of patience with troubled parents who attempt to remedy a lack of parenting skills." *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). But that statement is tempered with the reality that such patience has been built into the statutory scheme of chapter 232. *Id*. The legislature incorporated a twelve-month limitation for children adjudicated CINA aged four and older. Iowa Code § 232.116(1)(f)(3). Our supreme court has stated that "the legislature, in cases meeting the conditions of [the Iowa Code], has made a categorical determination that the needs of a child are promoted by termination of parental rights." *In re M.W.*, 458 N.W.2d 847, 850 (Iowa 1990) (discussing section 232.116(1)(e)). The public policy of the state having been legislatively set, we are obligated to heed the statutory time periods for reunification.

At the termination hearing, the father recognized that even if he were released early, the children could not immediately be returned to his care. The children have been out of the mother's care for over a year, and they have not seen or been in the care of their father in five years. The children have no relationship with the father. Nevertheless, he asserts the children could have been placed with his mother (the children's paternal grandmother) until he was able to take custody of the children.

The juvenile court found that placement with the grandmother was not in the best interests of the children, explaining:

> [W]hile [the grandmother] loves her granddaughters, she fails to appreciate the risk her son could present to the girls. She seems to underestimate the depth of the girls' need for special support and help in dealing with their own sexual abuse. She plans on moving her son in with her upon his release from prison and continues to minimize his involvement in and responsibility for the sexual abuse of his victim.
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> Placement with [the grandmother] would disrupt the girls' established relationship with their counselor. It would also disrupt their stable relationship with their foster family. Such a disruption would come on the hope that [the father] would prove himself a good parent and a safe placement for his daughters after his release from prison at some unknown future date and would force the girls to continue in limbo, waiting for [the father] to prove himself. While [the father] may well have learned something during his incarceration, his past dealing with the Department and unwillingness to cooperate with services does not give the court much confidence that further delay would be appropriate.

We agree with the juvenile court's assessment. "Children simply cannot wait for responsible parenting." *In re C.H.*, 652 N.W.2d 144, 151 (Iowa 2002) (quotation omitted). "The crucial days of childhood cannot be suspended while parents experiment with ways to face up to their own problems." *Id.* (quotation omitted). "It is well-settled law that we cannot deprive a child of permanency

after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child." *P.L.*, 778 N.W.2d at 41. Upon our de novo review, we agree with the juvenile court that the State proved the children could not be returned to the custody of the father at the time of the hearing.

The father also argues the State failed to make reasonable efforts to reunify him with his children. While the State has an obligation to provide reasonable reunification services, the parent has an equal obligation to demand other, different, or additional services *prior to the termination hearing*." *In re S.R.*, 600 N.W.2d 63, 65 (Iowa Ct. App. 1999) (emphasis added). When a parent alleging inadequate services fails to demand services other than those provided, the issue of whether services were adequate is not preserved for appellate review. *Id.*; *In re T.J.O.*, 527 N.W.2d 417, 420 (Iowa Ct. App. 1994). Here, there is no evidence the father ever requested any services. We therefore find he has not preserved error on this issue. The judgment of the juvenile court is affirmed.

AFFIRMED.