IN THE COURT OF APPEALS OF IOWA

No. 9-253 / 09-0293
Filed May 6, 2009

IN THE INTEREST OF S.M. and C.M.,
Minor Children,

M.M., Father,
Appellant.

Appeal from the Iowa District Court for Franklin County, Peter B. Newell, District Associate Judge.

A father appeals the district court's denial of his request to modify the permanency plan. **AFFIRMED.**

Charles Biebesheimer of Stillman Law Firm, Clear Lake, for appellant father.

Randy Johannsen, Sheffield, for appellee mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Brent Symens, County Attorney, and Dan Wiechmann, Jr., Assistant County Attorney, for appellee State.

Larry Johnson, Iowa Falls, for minor children.

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

VAITHESWARAN, J.

Mark was addicted to methamphetamine and marijuana for more than twenty years. He has two children whose welfare was affected.

The State initiated child-in-need-of-assistance proceedings in 2006. The children were placed with Mark's mother and, subsequently, with their maternal grandparents. In the intervening months, Mark's urine tested positive for the presence of methamphetamine. As a result, the district court issued a permanency order transferring guardianship and custody of the children to the maternal grandparents with continued placement in their home. The court also ordered the department to provide Mark with visitation at its discretion.

Mark participated in inpatient and outpatient drug treatment programs and regularly visited his children. In 2008, the district court held a review hearing at which Mark requested that the department work towards reunifying him with the children. The district court denied the request stating:

> [The maternal grandparents] have provided this placement for the Children. The Court does not believe that it would be appropriate at this time to modify the permanency goal and attempt a reunification between these Children and their father. The Court believes that this would be unduly disruptive to the Children and that the Children are best served by having a stable, safe placement with adequate structure and supervision.

Six months later, Mark requested additional visitation and a modification of the permanency plan. Following an evidentiary hearing, the district court denied the request to modify the permanency plan and left visitation at the discretion of the department. By this time, the children had been in the care of their maternal grandparents for almost two years.

On appeal, Mark contends the children should have been returned to his custody. "[O]ur responsibility in a modification of a permanency order is to look solely at the best interests of the children for whom the permanency order was previously entered." *In re A.S.T.*, 508 N.W.2d 735, 737 (Iowa Ct. App. 1993). While parental change is part of the focus, "the overwhelming bulk of the focus is on the children and their needs." *Id.*

The record supports Mark's contention that he worked hard to address his addictions. At the permanency modification hearing, he testified that he had been sober for twenty-three months and, to the best of his knowledge, had met all the department's expectations. The department caseworker agreed that Mark followed through with services and did not show any "behavioral indicators" of drug use. Mark's employer and the children's mother also vouched for his sobriety.

Mark's significant progress was not in vain. Because of it, he was allowed regular, unsupervised visits with his children, including weekend and summer overnight visits. The department also authorized weeknight access, if Mark wished to take the children out for dinner. While the district court did not grant his request for alternate weekend and additional summer visitation, the court also did not deny this request, leaving it to the department's discretion. There was no indication that the department had previously exercised its discretion arbitrarily.

On our de novo review, we believe the children's best interests were served by these visits, which the department was free to increase, combined with the court's designation of the maternal grandparents as the children's permanent caretaker. The children wanted regular contact with their father. At the same

time, they needed a stable home. As the department's caseworker noted, the agency had been in and out of the children's lives since 2001 and they needed to know that their present home would be their permanent home. She opined that there was "no reason to cause any more instability for these children by moving them again." We concur with this assessment.

We affirm the district court's denial of Mark's request for a modification of the permanency order.

AFFIRMED.