

IN THE COURT OF APPEALS OF IOWA

No. 9-676 / 09-0734
Filed September 17, 2009

**IN THE INTEREST OF C.T., C.T., AND C.T.,
Minor Children,**

**D.S.T., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Joe E. Smith, District Associate Judge.

A father appeals the termination of his parental rights to his three children.

AFFIRMED.

Amanda Demichelis of Demichelis Law Firm, Chariton, for appellant father.

Katherine Daman, Norwalk, for appellee mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John P. Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellee State.

Kimberly Ayotte of Youth Law Center, Des Moines, for minor children.

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

VAITHESWARAN, P.J.

Dan appeals the termination of his parental rights to three of his children, born in 1996, 1997, and 1999. He contends the State failed to prove the grounds for termination cited by the juvenile court and termination was not in the children's best interests. Our review of the record is de novo. Iowa R. App. P. 6.907 (2009).

The Department of Human Services became involved with the family in May 2007 after learning that the children's mother was abusing drugs. At around the same time, Dan, who was on probation for a crime involving harassment of his wife, was again arrested for harassing her. The charge was eventually dismissed, but a protective order prohibiting him from having contact with her remained in effect.

The children stayed with relatives while the Department initiated services to address Dan's anger issues. In May 2008, the children were placed in foster care with a goal of reunifying them with Dan as soon as possible.¹ That plan changed when Mary, a woman with whom Dan was having a relationship, also sought and obtained a protective order against him. The Department described the underlying incident as follows:

In June 2008 Mary requested a protective order against Dan. Mary had previously had a broken arm when this worker initially met her. This worker had questioned Mary about her injury due to Dan's history, however in the past she and Dan told this worker how she had accidentally broken it in the shower. After requesting the protective order Mary stated that Dan did in fact break her arm and that she lied because he threatened her. Mary also reported that Dan was verbally abusive and threatening. Dan had met with

¹ The children's mother continued to struggle with drug addiction and eventually consented to the termination of her parental rights to these children.

the children's therapists after this happened and gave them no indication that anything had happened with Mary. When this worker contacted Dan regarding the concerns Dan initially just stated to this worker that he was not living with Mary anymore and that it just wasn't working out. When questioned further by this worker Dan blamed Mary's negative behaviors for their relationship ending claiming that she was drinking, taking pills, and gambling and that they were not getting along. This worker questioned Dan about previously having his children around this woman who he was claiming had been having these problems. After further questioning by this worker Dan revealed that there was a protective order in place between him and Mary.

Dan denied abusing Mary. The Department accepted Mary's version of events and changed its goal from reunification to termination of Dan's parental rights.

After the State filed its termination petition, the juvenile court scheduled two termination hearings. At the first hearing, Dan reiterated that he was not physically violent towards his wife or towards Mary. The State countered by eliciting testimony that Dan broke his wrist at about the same time that Mary told the Department worker about her broken arm. The State also pointed out that Dan only participated in two sessions of a batterers' education program and refused to admit to committing physical violence against the women in his life. The State introduced a Department report stating, "Dan continues to deny responsibility for his anger management/domestic violence issues and has not made progress in those areas since this case began."

Given the two protective orders against Dan and the detailed summary of Mary's communications with the Department, we conclude Dan's refusal to admit to physical violence was an adequate basis for moving toward termination of his parental rights. See *In re C.H.*, 652 N.W.2d 144, 148-49 (Iowa 2002). These facts also support the juvenile court's conclusion that the children could not be

returned to Dan's care and the conclusion that termination was in the children's best interests. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

We recognize that Dan made several efforts to satisfy Department expectations. He attended weekly visits with his children unless illness precluded them, maintained steady employment as a mechanic, moved to a one-bedroom apartment with the option of relocating to a two-bedroom facility when it became available, and initiated individual counseling sessions at his expense. Indeed, his counselor testified that, during the eight sessions Dan attended, he admitted he had anger management issues and began learning ways to address those issues.

Despite these significant efforts, the fact remains that Dan did not follow through with the batterer's education program, which might have assuaged the Department's concern about violence in his home. While Dan testified that he neither had the finances nor the time to continue his participation in that program, he did not bring these concerns to the attention of the court until the termination hearing. See *id.* at 493-94 (emphasizing the importance for parents to object to services early in the proceedings so that appropriate changes can be made). Additionally, the court was clearly unimpressed with his reasons for noncompliance, citing Dan's earlier characterization of the program as a "joke."

For these reasons, we affirm the termination of Dan's parental rights to these three children.

AFFIRMED.