

IN THE COURT OF APPEALS OF IOWA

No. 3-1187 / 13-1645
Filed January 9, 2014

**IN THE INTEREST OF E.B.,
Minor Child,**

S.B., Father,
Appellant.

Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, Associate Juvenile Judge.

S.B. appeals the district court's refusal to grant a six-month extension of time before terminating his parental rights. **AFFIRMED.**

Kathryn Mahoney, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Ralph Potter, County Attorney, and Joshua A. Vander Ploeg, Assistant County Attorney, for appellee.

Colista Anglese, Dubuque, for mother.

Kristy Hefel, Public Defender's Office, Dubuque, attorney and guardian ad litem for minor child.

Considered by Doyle, P.J., and Tabor and Bower, JJ.

BOWER, J.

S.B. appeals the district court's refusal to grant a six-month extension of time before terminating his parental rights. We find there was no basis upon which the district court could have concluded the need for removal of the child would have been remedied by a six-month extension of time. The district court properly denied the extension and terminated his parental rights. We affirm.

I. Background Facts and Proceedings

S.B. is the biological father of E.B. At the time of removal the child was living with the mother and two half-siblings.¹ The initial removal occurred on February 9, 2011, after the mother contacted police following an alleged physical altercation with S.B. The mother had taken all three children to S.B. because she could no longer care for them. After S.B. informed her he would only take E.B., an altercation occurred.² Because police and a department of human services (DHS) case worker concluded neither parent was a safe option for the children, the children were removed from their mother's care.

E.B. and the other children were returned to the mother's care on February 15, 2011, under the protective supervision of DHS. In June of 2011, the mother moved with the children from Black Hawk County to a transitional living facility in Dubuque County.³ After moving to Dubuque, the children were

¹ The mother has voluntarily terminated her parental rights. She was also denied an extension of time. Issues concerning termination of her rights or the parental rights of the fathers of E.B.'s half siblings are not before this court

² S.B. was charged with disorderly conduct after he punched a pillar on the porch of his residence.

³ The mother maintained eight or nine different residences during the pendency of this case.

removed from the mother's care on multiple occasions. Following all but the last of these removals, they were returned to her care. S.B.'s involvement with E.B. during this period was limited to visitation. Because S.B. relies on others to provide transportation, he missed several planned visits. In January of 2012, S.B. advised DHS he would not be an appropriate placement option for E.B.

On May 9, 2012, the mother contacted DHS requesting removal of the children after realizing she could no longer care for them due to her mental illness. The children were removed only to be returned on May 16, 2012. DHS requested removal on June 11, 2012, due to the mother's lack of progress in addressing her mental illness. At about this time S.B. discontinued participating in services, though he did maintain some contact with E.B.

On September 6, 2012, the foster care review board reported S.B. had not been engaged in services or visitation. S.B. did have one visit with E.B. on September 24, 2012. He then sought regular visitation in October 2012 in hopes of being granted placement of E.B. Visitation was sporadic through the end of 2012. E.B. and one sibling were returned to their mother in late 2012 but returned to foster care one month later.

A family team meeting was held on April 16, 2013. At the meeting the mother advised DHS that she wished to terminate her parental rights voluntarily because of her inability to care for the children. She changed her mind in July of 2013 after learning the children might not be placed together.

S.B. completed a mental health evaluation on May 29, 2013.⁴ In July 2013, it was reported that S.B. had not participated in Family Safety, Risk, and Permanency (FSRP) services for more than one year. During a family team meeting on July 11, 2013, S.B. indicated he believed he could care for E.B. He was told he would have to meet with a service provider weekly and submit to random drop-ins at his home. When one such drop-in was requested on July 29, 2013, S.B. refused. S.B. engaged in limited visitation although he rarely stayed the entire time and failed to have snacks for E.B. as directed. He claims he did not bring snacks because he could not afford them. S.B. continues to require in-home services six days per week to assist him with daily living skills.⁵

The State petitioned to terminate the parental rights of both parents on August 21, 2013. Both parents requested a six-month extension of time to address the reasons for termination. The district court denied the requests.

II. Standard of Review

Our review of termination proceedings is *de novo*. *In re A.B.*, 815, N.W.2d 764, 773 (Iowa 2012). We give weight to the factual findings of the district court, particularly on matters of credibility, but we are not bound by them. *Id.*

III. Discussion

S.B. does not argue there are insufficient grounds for termination. He contends he should have been granted a six-month extension of time so that he could continue towards reunification with E.B. The district court denied the request because S.B. had minimal involvement with E.B. and service providers.

⁴ As of the date of termination DHS had not received a copy of the mental health report.

⁵ The record shows that S.B. does not drive, cannot read, and is low functioning.

Section 232.104(2)(b) (2013) allows the district court to continue temporary placement of a child for six months provided the court is able to conclude the need for removal will no longer exist at the end of the six-month period. We find there is no basis to conclude S.B. would be able to care for E.B. after a six-month extension of time. He has shown a lack of interest in complying with many of the prerequisites for placement, such as allowing drop-in inspections of his home. S.B.'s inability to drive or obtain reliable transportation would place the child in harm's way in the event of an emergency. S.B.'s need for extensive in-home assistance is also unlikely to be remedied within six-months. There is nothing in the history of this case that would allow us to conclude E.B. could be placed with S.B. within the next six months. We will not ask E.B. to wait while the prospects for S.B.'s improvement as a parent remain entirely speculative. See *In re D.W.*, 791 N.W.2d 703, 707 (Iowa 2010) ("We do not gamble with the children's future by asking them to continuously wait for a stable biological parent, particularly at such tender ages.").

AFFIRMED.