

IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL

IN RE INTEREST OF DANNON C. ET AL.

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
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IN RE INTEREST OF DANNON C. ET AL., CHILDREN UNDER 18 YEARS OF AGE.

STATE OF NEBRASKA, APPELLEE,

V.

TIMOTHY V., APPELLANT.

Filed March 24, 2009. No. A-08-1153.

Appeal from the Separate Juvenile Court of Douglas County: DOUGLAS F. JOHNSON,
Judge. Affirmed.

Steven M. Renteria for appellant.

Donald W. Kleine, Douglas County Attorney, Jennifer Chrystal-Clark, and Sean Lavery,
Senior Certified Law Student, for appellee.

IRWIN, CARLSON, and MOORE, Judges.

IRWIN, Judge.

I. INTRODUCTION

Timothy V. appeals an order of the separate juvenile court of Douglas County, Nebraska, adjudicating Laquisha S. to be a child within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008) and terminating Timothy's parental rights concerning Laquisha. On appeal, Timothy assigns numerous errors concerning the juvenile court's order, but argues only that the court lacked jurisdiction because his paternity of Laquisha was not sufficiently proven and that the court erred in finding that reasonable efforts under Neb. Rev. Stat. § 43-283.01 (Reissue 2008) were not required in this case. We find the appeal to be meritless, and we affirm.

II. BACKGROUND

On June 2, 2008, the State filed a third supplemental petition seeking an adjudication order regarding Laquisha and Timothy and seeking to terminate Timothy's parental rights concerning Laquisha. The State alleged that Laquisha was born on March 17, 1997; that Timothy had no contact with Laquisha during the previous 6 months; that Timothy provided no financial or emotional support to Laquisha during the previous 6 months; that Timothy had abandoned Laquisha; and that Laquisha had been in an out-of-home placement for 15 or more of the most recent 22 months. The State also alleged that termination of Timothy's parental rights was in Laquisha's best interests and that reasonable efforts under § 43-283.01 were not required because Timothy had abandoned Laquisha. We note that Laquisha's mother relinquished her parental rights to Laquisha and the mother's other four children, who are not involved in the present appeal.

At trial, the State adduced substantial evidence concerning Laquisha's history with the juvenile court system. Timothy testified in his behalf. During his direct testimony, Timothy specifically testified that he is Laquisha's father, that his paternity was established by the district court in approximately 2000, that he was ordered to pay child support, and that he had not paid child support because of past periods of incarceration and unemployment.

On October 7, 2008, the juvenile court entered an order. The court found the allegations necessary for adjudication had been proven and that the allegations necessary for terminating Timothy's parental rights had also been proven. The court specifically found that reasonable efforts under § 43-283.01 were not required and that termination of Timothy's parental rights was in Laquisha's best interests. This appeal followed.

III. ASSIGNMENTS OF ERROR

Timothy assigned eight errors on appeal, including assignments of error concerning the juvenile court's findings on the statutory grounds for termination and on the best interests of Laquisha, in denying Timothy's motion to dismiss, and in not exploring alternatives to terminating Timothy's parental rights. In the argument section of his brief, however, Timothy presents only two arguments. First, Timothy argues that the juvenile court lacked jurisdiction to terminate his parental rights because the State adduced insufficient evidence to establish that Timothy was actually Laquisha's father. Second, Timothy argues that the juvenile court erred in finding that reasonable efforts under § 43-283.01 were not required.

Because Timothy has not presented any argument concerning the bulk of his assignments of error, including any assignments related to the sufficiency of the evidence to support findings related to the statutory grounds for termination or best interests, we will not further address those assignments. See, *In re Interest of A.C.*, 239 Neb. 734, 478 N.W.2d 1 (1991); *In re Interest of Maxwell T.*, 15 Neb. App. 47, 721 N.W.2d 676 (2006); *In re Interest of Michael U.*, 14 Neb. App. 918, 720 N.W.2d 403 (2006); *In re Interest of Andrew H.*, 5 Neb. App. 716, 564 N.W.2d 611 (1997) (to be considered by appellate court, alleged errors must be both specifically assigned and specifically argued in brief).

IV. ANALYSIS

1. JURISDICTION AND PROOF OF PATERNITY

Timothy first argues that the juvenile court lacked jurisdiction to terminate his parental rights because there was insufficient evidence adduced to prove that he is actually Laquisha's father. In addition to the paradoxical nature of this argument, where Timothy attempts to contest the termination of his parental rights while also seeming to argue that he has no parental rights to be terminated, the evidence adduced at trial, by Timothy himself, clearly demonstrates paternity.

We initially acknowledge that we are somewhat perplexed by this argument. Although Timothy has appealed the juvenile court's termination of his parental rights related to Laquisha and seeks an order of this court finding that his parental rights should not have been terminated, his first argument on appeal is essentially that he had no parental rights in the first place. We can find no logical reconciliation of these two positions in the context of an appeal to prevent termination of parental rights, and Timothy's brief provides us with none.

Nonetheless, putting aside our confusion, the record presented by Timothy on appeal belies his assertion that the court had insufficient evidence of paternity. Timothy himself testified, on direct examination from his own counsel, that he is Laquisha's father, that his paternity has already been established in a district court proceeding, and that he was ordered to pay child support in approximately 2000 as a result of that paternity finding. Timothy's own testimony adequately establishes paternity which, on the one hand renders this argument meritless and yet, on the other hand, leaves Timothy with a reason for contesting termination of parental rights as he has done with this appeal.

2. REASONABLE EFFORTS

Timothy's second argument on appeal is that the juvenile court erred in finding that reasonable efforts pursuant to § 43-283.01 were not required. In his brief, Timothy devotes nearly 10 pages of argument to presenting the history of the federal "Adoption and Safe Family Act[,] found at 42 U.S.C. § 675," and its role in shaping the implementation of § 42-283.01 in Nebraska. Brief for appellant at 11. Nonetheless, established precedent in Nebraska clearly supports the juvenile court's finding that reasonable efforts were not required in the present case.

Section 43-283.01(2) generally provides that reasonable efforts to preserve and reunify families are required in juvenile case. However, § 43-283.01(4)(a) specifically provides that such reasonable efforts are not required if a court of competent jurisdiction determines that the parent has subjected the juvenile to aggravated circumstances, including abandonment. This court has specifically recognized that the requirement to provide reasonable efforts to reunify families pursuant to § 43-283.01 is incorporated into a termination of parental rights case only under Neb. Rev. Stat. § 43-292(6) (Reissue 2008), related to assertions that parental rights should be terminated because of the failure of a parent to successfully rehabilitate himself or herself. *In re Interest of Brittany S.*, 12 Neb. App. 208, 670 N.W.2d 465 (2003). See, also, *In re Interest of DeWayne G. & Devon G.*, 263 Neb. 43, 638 N.W.2d 510 (2002). The State has no obligation to demonstrate reasonable efforts at reunification when parental rights are terminated on the basis of § 43-292(7). *In re Interest of Brittany S.*, *supra*.

In the present case, the State sought termination of Timothy's parental rights, and the juvenile court ordered such termination, based on assertions that Timothy had abandoned Laquisha, pursuant to § 43-292(1), and that Laquisha had been in an out-of-home placement for at least 15 of the most recent 22 months, pursuant to § 43-292(7). As such, reasonable efforts under § 43-283.01 were not required in this case, and the juvenile court's finding to that effect was correct. This argument by Timothy also lacks merit.

V. CONCLUSION

We find no merit to the errors argued by Timothy. We affirm.

AFFIRMED.