

**IN THE COURT OF APPEALS OF IOWA**

No. 0-074 / 09-1880  
Filed February 10, 2010

**IN THE INTEREST OF K.M.P. and H.R.P.,  
Minor Children,**

**J.M.P., Father,  
Appellant.**

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

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

**AFFIRMED.**

Les M. Blair III of Blair & Fitzsimmons, P.C., Dubuquen, for appellant.

Thomas J. Miller, Attorney General, Diane M. Stahle, Assistant Attorney General, Ralph Potter, County Attorney, and Jean Becker, Assistant County Attorney, for appellee.

Sarah Stork Meyer, Dubuque, for mother.

Mary Kelley, Assistant Public Defender, attorney and guardian ad litem for minor children.

Considered by Vogel, P.J., and Eisenhauer, J., and Zimmer, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

**EISENHAUER, J.**

A father appeals from the termination of his parental rights to his children. He contends the State failed to prove the grounds for termination by clear and convincing evidence. We review his claim de novo. See *In re N.E.*, 752 N.W.2d 1, 6 (Iowa 2008).

The father's parental rights were terminated pursuant to Iowa Code section 232.116(1)(h) (2009). In order to terminate under this section, the State must prove the following by clear and convincing evidence:

- (1) The child is three years of age or younger.
- (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 six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

Iowa Code § 232.116(1)(h). The father does not dispute the first three elements have been proved. He argues there is not clear and convincing evidence the children cannot be returned to his custody as the present time.

We conclude the evidence shows the children cannot be safely returned to the father's care. The children, now ages one and two, have been out of the father's care since March 2009. They are placed with their maternal grandmother. Throughout this case, there have been concerns about the father's ability to adequately care for his children. A partially completed mental health evaluation reveals the father has cognitive abilities between a fourth and sixth

grade level. A parenting stress inventory indicates he is overwhelmed by his role as a father. His prognosis for change is poor.

The circumstances leading to the children's removal and adjudication have not improved despite the provision of assistance to the father. In February 2008, the father left K.P.—then eleven months of age—unsupervised in a walker that allowed her mobility and access to various dangerous conditions present in the house. The daycare providers reported K.P. was being dropped off with motor oil on her hands, knees, feet, and clothes, and did not appear to be fed prior to her 11:00 a.m. arrival. The father's parenting difficulties were only exacerbated by the birth of H.P. in December 2008. In addition to an inability to care for the children independently, the father does not have the financial means to provide for the children. He testified at the termination hearing that he was unable to care for the children at that time and needed additional time. He asked for another month to prepare to provide a home for his children. The trial court found:

Given that [the father] has never been able to care for the girls independently, does not have employment, does not have his own residence, and has made no progress with the services offered, the Court finds his time frame to be unrealistic.

We agree.

While the law requires a “full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” this patience has been built into the statutory scheme of chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). Children should not be forced to endlessly await the maturity of a natural parent. *Id.* At some point, the rights and needs of the child rise above the rights

and needs of the parent. *In re J.L.W.*, 570 N.W.2d 778, 781 (Iowa Ct. App. 1997). Having found the statutory grounds for termination were proved by clear and convincing evidence, we affirm the termination of the father's parental rights.

**AFFIRMED.**