

IN THE COURT OF APPEALS OF IOWA

No. 0-484 / 10-0847
Filed July 28, 2010

**IN THE INTEREST OF L.J.C.,
Minor Child,**

**T.C., Father,
Appellant.**

Appeal from the Iowa District Court for Plymouth County, Robert J. Dull,
District Associate Judge.

A father appeals from the order terminating his parental rights.

AFFIRMED.

Dewey P. Sloan Jr., LeMars, for appellant father.

Scott L. Bixenman, LeMars, for mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Darin J. Raymond, County Attorney, and Amy K. Oetken,
Assistant County Attorney, for appellee State.

John C. Polifka of the Juvenile Law Center, Sioux City, for minor child.

Considered en banc.¹

¹ This is the first appeal submitted to the court electronically. It is considered en banc to afford all judges on the court an opportunity to familiarize themselves with the Iowa Judicial Branch's electronic document management system (EDMS).

DOYLE, J.

A father appeals the termination of his parental rights to his child, L.C. He contends the State failed to prove the grounds for termination by clear and convincing evidence. We review his claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

Five-year old L.C. lived with her father, mother, and siblings² in a dilapidated two-story farmhouse in rural Iowa. A child protection worker with the Iowa Department of Human Services (Department) visited the home in August 2008 after receiving a report about the family's poor living conditions. The worker observed the walls inside the home had been stripped down to the wood studs. There were open electrical outlets and exposed wiring throughout the house. The older children were sleeping on mattresses on the floor with no bedding. L.C. was sleeping on a couch cushion. The children's rooms were filled with piles of dirty clothing that the family's numerous pets defecated and urinated on.

L.C. was adjudicated a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b), (c), (g), and (n) (2007) in December 2008. Around that same time, L.C.'s father was hospitalized following a suicide attempt. He suffers from several mental health disorders, including schizoaffective disorder, bipolar type. His hospitalization occurred after he drank alcohol while taking his medications. The father moved out of the family's home for a period of time and began participating in substance abuse and mental health treatment.

² L.C.'s mother had three older children from previous relationships who lived with the family in the home.

He continued to struggle with his mental health problems, often appearing confused and agitated at visits. The family's living conditions also failed to improve.

The juvenile court's dispositional order in January 2009 removed L.C. from her parents' care and placed her with relatives. A Court Appointed Special Advocate (CASA) assigned to the case described L.C.'s subsequent transformation in her relatives' care as "nothing short of amazing. She has gone from a shy, introverted child that would hardly ever speak" to becoming "bubbly and outgoing." After her removal, the father visited L.C. on a weekly basis. Unfortunately, his behavior became increasingly volatile and frightening to the service provider supervising the visits. In August 2009, he stopped taking his medications and began drinking again, resulting in another hospitalization. From then on, his attendance at visits and participation in treatment was sporadic.

The State filed a petition to terminate parental rights in February 2010. Following a hearing, the juvenile court entered an order terminating the father's rights to L.C. under Iowa Code sections 232.116(1)(d), (e), (f), (g), (k), and (l) (2009). The father appeals, challenging all of the statutory grounds for termination.

We need only find termination proper under one ground to affirm. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995). In this case, we choose to focus our attention on Iowa Code section 232.116(1)(f) (child is four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home) as the basis for termination. Because the first three elements of this section are clearly met, the father's claim implicates only the

fourth element. Upon our de novo review, we conclude there was clear and convincing evidence the child could not be returned to the father's care without remaining CINA. *Id.* at 277.

At the time of the termination hearing, the father was unemployed. Despite being hospitalized twice during these proceedings for suicidal behavior, he was not attending therapy to address his mental health needs. He was also not consistently participating in substance abuse treatment. The father's visits with L.C., which were inconsistent near the end of the case, never progressed beyond supervised. He behaved erratically at times and was not able to recognize the dangers the family's living environment had posed for L.C., testifying at the hearing: "I have always provided a safe home, clothes, food, and insurance for these girls."

To the contrary, the record shows the children were underfed and uncared for when in their parents' care. For example, L.C. reportedly stuck her finger in an open electrical socket and cut her foot on a piece of glass somewhere inside the family's house. She and her older siblings often appeared dirty and unkempt. The only bathroom in the home was not heated, causing the workers involved with the family to suspect the children were not bathed on a regular basis, or at all, during the cold winter months. As late as June 2009, after the parents had received services for close to one year, a service provider observed

ants crawling around the kitchen sink area, dirty dishes everywhere, kitchen table full of clothes, boxes & other stuff. . . . 4 other cats were in the house & 1 dog. . . . The bedroom was a mess, dirty & clean clothes everywhere, bed unmade.

The father's attitude towards remedying these and other unsafe conditions in the home was described as lackadaisical.

Also concerning is the fact that the father's parental rights to two children from a previous relationship were terminated in 2003 after his infant son suffered severe head trauma "consistent with Shaken Baby Syndrome" while in the father's care. See *In re N.F.*, 579 N.W.2d 338, 341 (Iowa Ct. App. 1998) (indicating a good prediction of the future conduct of a parent is to look at past conduct). The father also had "a history of two founded child abuse reports that involve the sexual abuse of young children."

In light of the foregoing, we agree with the juvenile court that despite receiving many months of intensive services aimed at reunification, the father "continues to utterly fail to show the necessary responsibility and consistency necessary to even contemplate" L.C.'s return to his care. Clear and convincing evidence supports the juvenile court's decision to terminate the father's parental rights under section 232.116(1)(f).

For the same reasons, we find the decision to terminate the father's parental rights to be in the child's best interests. See *P.L.*, 778 N.W.2d at 37 (stating the primary considerations in determining the best interests of a child are the child's safety, the best placement for furthering the long-term nurturing and growth of the child, and the physical, mental, and emotional condition and needs of the child). While we do not doubt the father's love for L.C., "[i]t is well-settled law that we cannot deprive a child of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child." *Id.* at 41.

We accordingly affirm the judgment of the juvenile court.

AFFIRMED.