

**IN THE COURT OF APPEALS OF IOWA**

No. 0-721 / 10-1343  
Filed October 6, 2010

**IN THE INTEREST OF J.C., J.C., and J.C.,  
Minor Children,**

**J.C., SR., Father,**  
Appellant,

**M.W., Mother,**  
Appellant.

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Appeal from the Iowa District Court for Linn County, Angie Wilson, District Associate Judge.

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

**AFFIRMED.**

Annette F. Martin, Cedar Rapids, for appellant-father.

Todd Weimer, Cedar Rapids, for appellant-mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Harold Denton, County Attorney, and Rebecca Belcher, Assistant County Attorney, for appellee.

Angela Railsback, Cedar Rapids, attorney and guardian ad litem for minor children.

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

**EISENHAUER, J.**

A father appeals the termination of his parental rights to his three children. He contends the State failed to prove the grounds for termination by clear and convincing evidence. He also contends termination is not in the children's best interest. We review his claims de novo. *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

The children came to the attention of the Department of Human Services in September 2007 following findings of child abuse perpetrated by each parent due to the parent's drug abuse and domestic violence. Voluntary services were instituted, but the father refused to participate. The children were removed from their mother's care in March 2008 following the discovery of drugs in her home and her arrest. The children were adjudicated in need of assistance (CINA). While the CINA proceedings were active, the father took the position the children should be returned to their mother and generally chose to ignore the case plan. A termination of parental rights action was commenced by the State in late 2009. After trial, the court denied the petition and instituted a plan to return the children to their mother. The parental rights of father were not terminated as the court found no practical reason to terminate his rights while the plan was to reunite the children with their mother. The attempt to return the children to mother ended in April 2010 when mother was arrested for an assault.

Although the father participated in most visitations with the children, he continued his refusal to participate in services directed by the case plan, including drug screening, a substance abuse evaluation, and services to address

his domestic violence issues. The father moved to North Carolina in March 2009 and has not seen his children since. He only complied with drug screening after the children's trial placement with the mother failed despite warnings that his failure to participate could lead to the termination of his parental rights.

A petition to terminate parental rights was filed in May 2010. Following a termination hearing in July 2010, the juvenile court terminated both parents' parental rights.<sup>1</sup> The father's rights were terminated pursuant to Iowa Code section 232.116(1)(e) (2009).

Termination is appropriate under section 232.116(1)(e) where there is clear and convincing evidence of the following:

- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.
- (3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "significant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

There is no dispute the first two elements have been proved. The father contends he maintained significant and meaningful contact.

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<sup>1</sup> The mother does not participate in this appeal.

We conclude the grounds for termination have been proved. The father chose not to participate in the services offered or to follow the case plan for two years following the CINA adjudication. He has not seen the children in over one year. His contact with his children, now ages twelve, nine, and eight, has been limited to a couple of phone calls. Despite repeated warnings that his parental rights could be terminated if he failed to participate in the case plan until the last minute, the father failed to act. The father failed to make “[a] genuine effort to complete the responsibilities prescribed in the case permanency plan” and has failed to “establish and maintain a place of importance” in his children’s lives.

Even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37 (Iowa 2010). In determining the best interest, this court’s primary considerations 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.” *Id.*

We also conclude termination is in the children’s best interest. Again, instead of being actively engaged in reuniting with his children, the father took a “wait and see” attitude when it came to his participation in the case permanency plan. The children lingered in foster care for two years following their CINA adjudication before the father took any affirmative steps to assume his responsibilities as a parent. He has not adequately demonstrated he has resolved his issues with substance abuse and domestic violence, and therefore the children’s safety is of concern if reunited with the father. The father has also

failed to show an interest in catering to his children's long-term nurturing and growth, as well as their physical, mental, and emotional condition and needs.

We affirm the termination of the father's parental rights.

**AFFIRMED.**