

**IN THE COURT OF APPEALS OF IOWA**

No. 1-251 / 11-0397  
Filed April 27, 2011

**IN THE INTEREST OF R.M.C.,  
Minor Child,**

**J.E.C., Father,  
Appellant.**

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Appeal from the Iowa District Court for Pottawattamie County, Gary Anderson, District Associate Judge.

A father appeals from the order terminating his parental rights.

**AFFIRMED.**

Scott D. Strait, Council Bluffs, for appellant father.

Roberta Megel, Council Bluffs, for mother.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Matthew Wilber, County Attorney, and Eric Strovers, Assistant County Attorney, for appellee State.

Marti D. Nerenstone, Council Bluffs, for minor child.

Considered by Sackett, C.J., and Doyle and Danilson, JJ.

**DOYLE, J.**

A father appeals from the order terminating his parental rights to his child. He claims (1) the State failed to prove the grounds for termination by clear and convincing evidence and (2) termination was not in the child's best interests. We review these claims de novo. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010).

In December 2009, police officers executed a search warrant on the mother's home where the child resided. They discovered drug paraphernalia associated with the sale and use of methamphetamine. The child had been left in the care of an elderly woman who also resided at the house. The house itself was in deplorable condition and later declared by the city to be uninhabitable.

The child was removed from her mother's care and placed in the temporary custody of the Iowa Department of Human Services for placement in foster care. She was adjudicated as a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(c)(2) and (n) (2009) in January 2010. The father contested the adjudication and requested the child be placed with him. The juvenile court denied the request, finding more information regarding the father's living situation and parenting skills was needed. However, the court determined the father could have liberal, unsupervised visitation with the child.

Throughout the months of January and February, the father had almost daily visits with the child at his parents' home where he resided. A worker with the Department performed drop-in visits at the home. Concerns with the father's employment and ability to secure independent housing were noted. The Department was also troubled by the paternal grandfather's criminal history. Those concerns were raised at the disposition hearing on March 2, 2010, but the

juvenile court ruled that without documentation of the grandfather's past crimes, visitation could continue as it had been. Two days later, the State filed a motion to change the father's visitation upon securing copies of the grandfather's convictions in 1992 and 1993 for indecent contact with a child. It requested the father's visits be changed to supervised as long as he continued to reside with his father.

A hearing was held, following which the juvenile court ruled unsupervised visitation could no longer occur at the paternal grandparents' home or in the presence of the grandfather. After the hearing, the caseworker and service provider met with the father to develop a visitation schedule. The father requested that visits occur only three times per week for three hours at a time so he could focus on finding employment and alternate housing. From that point forward, the father's visitation with his daughter became sporadic. He attended only fifteen out of forty scheduled visits from March through June 2010. His last visit occurred on July 28, 2010. He has not seen the child since, despite the Department's efforts to re-engage him with visitation.

The State filed a petition to terminate parental rights in December 2010. Following a hearing in February 2011, the juvenile court entered an order terminating the father's rights to the children under Iowa Code sections 232.116(1)(b), (d), (e), and (f).<sup>1</sup> The father appeals.

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

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<sup>1</sup> The mother's parental rights, to this child and another with a different father, were also terminated. She has not appealed.

focus our attention on section 232.116(1)(e). Under that section, parental rights may be terminated if the court finds by clear and convincing evidence (1) the child has been adjudicated CINA, (2) the child has been removed from the physical custody of the parent for at least six consecutive months, and (3) the parent has not maintained significant and meaningful contact with the child during the previous six consecutive months and has made no reasonable efforts to resume care of the child despite being given the opportunity to do so. Iowa Code § 232.116(1)(e).

Because the first two elements of section 232.116(1)(e) are clearly met, the father's claim implicates only the third element—lack of significant and meaningful contact with the child. “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.

*Id.* § 232.116(1)(e)(3).

The father argues he cared for his child “on a daily basis and even when the State made his contact more problematic, he endeavored to see her and interact and care for her.” The record does not support this assertion. While it is true the father saw the child on an almost daily basis from January through February 2010, that did not hold true for the remainder of the case. *See id.* (focusing on contact with the child in six-month period preceding termination).

Beginning in March 2010, the father started missing scheduled visitations. His excuses ranged from the weather, to lack of transportation, to being unable to wake up in time for the 2:00 p.m. visits. The Department remained flexible, often providing transportation for the child, switching the location of the visits to accommodate the father, and offering to work around his less than part-time work schedule. Yet the father continued to cancel more visits than he attended, eventually stopping visits altogether after July 28, 2010. The father has not seen, spoken to, or written the child since then. He did not acknowledge her birthday or Christmas. It is clear the father did not make a “genuine effort to maintain communication with the child.” *Id.* Nor did he “establish and maintain a place of importance” in the child’s life. *Id.*

The caseworker reported the child, who was four years old at the time of the termination hearing, viewed her foster parents as her mother and father. She seemed puzzled when asked about the father. When asked to draw a picture of her family, she drew herself with her foster parents and their other child. It is clear the child’s familial identity is now with her foster family, who are able and willing to permanently integrate her into the family. See Iowa Code § 232.116(2)(b).

The child is doing very well in the foster home where she has resided since June 2010. See *id.* Her therapist reported that while in the care of the foster parents, the child has become “independent, confident and secure, focused, creative and spontaneous,” which is in “strong contrast to previously presented behavior.” Although the father argues he is “bonded with his daughter and cares for her deeply,” his actions and the child’s indifference to him

demonstrate otherwise. We find no evidence that termination would be detrimental to the child “due to the closeness of the parent-child relationship.” Iowa Code § 232.116(3)(c). Instead, it appears termination will provide her with the safety, security, and permanency she deserves. See *P.L.*, 778 N.W.2d at 41.

We accordingly agree with the juvenile court upon our de novo review that clear and convincing evidence supports the termination of the father’s parental rights under section 232.116(1)(e) and that termination is in the child’s best interests.

**AFFIRMED.**