

IN THE COURT OF APPEALS OF IOWA

No. 1-291 / 11-0410
Filed May 11, 2011

**IN THE INTEREST OF M.K.,
Minor Child,**

B.F., Father,
Appellant.

Appeal from the Iowa District Court for Jackson County, Phillip J. Tabor,
District Associate Judge.

A father appeals the district court's ruling terminating his parental rights.

AFFIRMED.

Stephen W. Newport of Newport & Newport, P.L.C., Davenport, for
appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Chris Raker, County Attorney, and Sara D. Davenport,
Assistant County Attorney, for appellee State.

John L. Kies of Kies Law Firm, Bellevue, for appellee mother.

Mark R. Lawson of Mark R. Lawson, P.C., Maquoketa, attorney and
guardian ad litem for minor child.

Considered by Vogel, P.J., Vaitheswaran, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

VOGEL, P.J

Breon appeals the district court's order terminating his parental rights to his son, M.K., born in 2002.¹ The district court terminated Breon's rights under Iowa Code sections 232.116(1)(d) (2009) (child CINA for physical or sexual abuse or neglect, circumstances continue despite receipt of services), (e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), (f) (child four or older, adjudicated CINA, removed from home for twelve of last eighteen months, and child cannot be returned home), and (i) (child CINA, child was in imminent danger, services would not correct conditions). We affirm.

Our review of termination of parental rights cases is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

Breon appeals, asserting sections 232.116(1)(d), (e), and (i) do not apply to him and therefore the State failed to prove the grounds alleged by clear and convincing evidence. Breon failed to appeal from section 232.116(1)(f). His failure to do so waives any right to appeal that issue, and we accordingly affirm the juvenile court's order terminating Breon's parental rights. *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999) (stating when the juvenile court terminates parental rights on more than one statutory ground, the appellate court only needs to find grounds to terminate parental rights under one of the sections cited by the juvenile court in order to affirm the ruling of the juvenile court).

¹ The parental rights of the biological mother of M.K. were also terminated and she does not appeal.

Breon also asserts termination of his parental rights was not in M.K.'s best interests. Even if a statutory ground for termination is met, a decision to terminate must still be in the best interest of a child after a review of the considerations in Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider 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.* M.K. was adjudicated a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(b), (c)(2), and (n) in October 2008, as a result of physical abuse. The evidence reveals he was abused both in his mother's home as well as by his father. M.K. was placed in a residential facility from March 2009 to March 2010, due to his acting out aggressively, likely from a reactive attachment disorder. Breon was given both supervised and unsupervised visits during this time. After a failed placement with M.K.'s mother, M.K. was placed in a foster home in July 2010, and DHS focused reunification efforts on Breon, who was living in Illinois.

Following a failed interstate home study, placement of M.K. was not recommended with Breon. The court allowed additional time to work toward reunification of M.K. with Breon, granting a sixty-day continuance at a July 2010 permanency review hearing, and again continuing the current placement at the September permanency review hearing. Not until the December 2010 review hearing, did the court find Breon had not made progress in his reunification efforts, and was no longer a placement option.

Breon asserts he did not receive the recommended reunification counseling, but the counseling was contingent upon Breon moving to Iowa, which

he did not do. DHS worker Russell Furne reported to the court, “Breon has not participated consistently in parenting sessions with LSI, despite the fact that the provider drives to Davenport to meet him.”

M.K. was never able to form a relationship with Breon. The district court found “the child’s play therapist believes the child continues to fear his father and cannot be reunified at this time,” and “there was physical abuse between the father and child, and the physical abuse continues to cause the fear of the father in the child.” Furne testified that because of the physical abuse Breon inflicted, M.K. “was afraid of his dad, and he did not want to visit him.” M.K. is currently living with a foster family, and according to Lutheran Services in Iowa worker, Deb Courter, M.K. has done a “complete turnaround,” is integrated into a regular classroom, and is “doing very well.” We conclude termination of Breon’s parental rights was in M.K.’s best interests as set forth under the factors in section 232.116(2).

AFFIRMED.