

IN THE COURT OF APPEALS OF IOWA

No. 1-786 / 11-1303
Filed November 9, 2011

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

**C.M.M., Father,
Appellant.**

Appeal from the Iowa District Court for Woodbury County, Mary J. Sokolovske, Judge.

A father appeals the district court's ruling terminating his parental rights to his daughter. **AFFIRMED.**

Joseph W. Kertels of Public Defender's Office, Sioux City, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Patrick Jennings, County Attorney, and Diane M. Murphy, Assistant County Attorney, for appellee State.

Timothy A. Scherle, Sioux City, for appellee mother.

Mercedes S. Ivener, Sioux City, attorney and guardian ad litem for minor child.

Considered by Sackett, C.J., and Vaitheswaran and Tabor, JJ.

VAITHESWARAN, J.

A father appeals the termination of his parental rights to his daughter, born in 2008. He contends (1) the State failed to prove the grounds for termination cited by the district court, (2) the district court should not have terminated his parental rights because the child was placed with a relative, and (3) he should have been granted an additional six months to explore reunification.

I. The district court terminated the father's parental rights pursuant to Iowa Code section 232.116(1)(d) (2011) (requiring proof of multiple elements, including proof of physical or sexual abuse or neglect), (e) (requiring proof of several elements including proof of the absence of significant and meaningful contact), and (h) (requiring proof of several elements including proof that child could not be returned to parent's custody). We may affirm if we find clear and convincing evidence to support any of these grounds. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). On our de novo review, we agree with the district court that the child could not be returned to the father's custody. *See id.* (setting forth standard of review).

The father had a history of assaulting the child's mother. In early 2010, he was involved in an altercation with her at a local fast food establishment. The child was present and in the midst of it. The father was criminally charged with domestic abuse assault and violation of a no-contact order. At the same time, the Department of Human Services placed him on the child abuse registry after finding that he denied the child critical care or failed to provide proper supervision. The child, who had been staying with maternal relatives because of the mother's unstable living situation, remained in their care.

The department instructed the father to participate in a batterer's education program and attend individual therapy sessions. The father did not follow through with either. While he stated the batterer's education program was cost prohibitive at \$140, the same could not be said of the individual therapy sessions, as the charges were based on the client's financial resources. At the termination hearing, the father conceded he did not discontinue those sessions because of money but because "after I sat in jail for a month back in February of last year, I dealt with a lot of things myself and learned how to just think about things and work it out myself."

The father did follow through with his two hours of supervised visits per week. Because he did not have a home of his own, the visits took place at his mother's house. By all accounts, they went well. But because the father did not complete the remaining reunification requirements, the department declined to increase the number of visits or transition father and child to unsupervised visits.

By the time of the termination hearing, the father essentially conceded that he was not in a position to reunify with the child. He stated "I would like a few more months to get things straightened out." Based on this record, we conclude the State proved the ground for termination set forth in Iowa Code section 232.116(1)(h).

II. The father next contends his parental rights should not have been terminated because the child was placed with a relative. See Iowa Code § 232.116(3)(a). The child was almost three years old at the time of the termination hearing and had been out of the father's care even before the department cited him for denial of critical care. While she enjoyed his company

during the limited time she had with him, there was little prospect that she would have more time with him in the imminent future. Additionally, the relatives who were caring for the child had their own problems with the law and with substance abuse, raising doubts as to their tenure as caretakers. For these reasons, we conclude a deferral of termination based on relative placement was not warranted.

III. Finally, the father contends that termination was not in the child's best interests. See *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). We disagree. The father conceded he was abusive to the child's mother in the presence of the child, conceded he violated a restraining order between them "on numerous occasions," conceded he used marijuana in the vicinity of the child and continued to use marijuana until about "three or four" months prior to the termination hearing, conceded he stopped taking prescribed anxiety/sleep medication, and conceded he did not follow through with services designed to address these issues. On this record, we conclude reunification would have compromised the child's health and safety.

We affirm the termination of the father's parental rights to his daughter.

AFFIRMED.