

**IN THE COURT OF APPEALS OF IOWA**

No. 1-977 / 11-1799  
Filed January 19, 2012

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

**S.K., Father,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Constance Cohen,  
Associate Juvenile Judge.

A father appeals the juvenile court order terminating his parental rights to  
his son. **AFFIRMED.**

Michael H. Said of Law Offices of Michael H. Said, P.C., Des Moines, for  
appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John P. Sarcone, County Attorney, and Andrea S. Vitzthum,  
Assistant County Attorney, for appellee.

Mike Bandstra, Des Moines, for mother.

M. Kathryn Miller Juvenile Public Defender, Des Moines, attorney and  
guardian ad litem for minor child.

Considered by Danilson, P.J., and Tabor and Mullins, JJ.

**MULLINS, J.**

A father appeals the juvenile court order terminating his parental rights to his son. Upon our de novo review, we affirm. See *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010) (reviewing termination proceedings de novo).

The family came to the attention of the Iowa Department of Human Services (DHS) following a domestic abuse incident on May 8, 2010, shortly before M.K.'s 12th birthday. During this incident, the father punched M.K.'s mother, held a gun to her head, and then called for M.K. to come down from his bedroom. When the child entered the living room, the father told the child, "My gift to you is your mom going away forever." M.K. was scared and ran back to his bedroom where he called the police. The father was arrested and charged with domestic abuse assault first offense with intent to commit serious injury, domestic abuse assault first offense with a dangerous weapon, harassment in the first degree, and child endangerment. A no-contact order was issued, and a child protective assessment was founded. Following the incident, DHS worked with the mother and M.K. on an infrequent basis due to the mother and child being "on the run" from the father and extended family members.

On July 13, 2010, the father attacked the mother again. The father followed the mother in his vehicle, approached her vehicle when she stopped, and told her he was going to kill her. While holding a meat cleaver, the father broke out the driver's side window, grabbed the mother by her hair, and dragged her out of her vehicle. The father attempted to force the mother into his vehicle twice, but she resisted. A crowd of people then began to amass, but the mother

was not freed until police arrived at the scene. The father was arrested and charged with kidnapping in the second degree, attempt to commit murder, burglary in the first degree, going armed with intent, and domestic abuse assault with a dangerous weapon. The father was placed into county jail.

On March 3, 2011, the State filed a petition alleging M.K. to be a child in need of assistance (CINA). Following a contested hearing, M.K. was adjudicated CINA under Iowa Code sections 232.2(6)(b) and (c)(2) (2011). Our court affirmed the CINA adjudication. See *In re C.K.*, No. 11-0752, 2011 WL 3925726 (Iowa Ct. App. Sept. 8, 2011).

On August 10, 2011, the father pled guilty to burglary in the second degree, a class “C” felony, and domestic abuse assault with a weapon for the July 13 incident. The father also entered into an *Alford* plea<sup>1</sup> for domestic abuse assault with a weapon for the May 8 incident. The father remained in custody pending sentencing and detention by United States Immigration Enforcement Services pending review of his status in immigration court.

Following the CINA adjudication, the State filed a petition to terminate the father’s parental rights. Contested hearings were held on September 14 and October 5, 2011.

On October 26, 2011, the juvenile court entered an order terminating the father’s parental rights under Iowa Code section 232.116(1)(i). The juvenile court’s order provides a detailed and thorough review of the evidence and

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<sup>1</sup> See *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L. Ed. 2d 162 (1970). An *Alford* plea is a procedure in which the defendant does not admit guilt, but acknowledges the evidence strongly negates the defendant’s claim of innocence and enters a guilty plea to avoid a harsher sentence. *State v. Knight*, 701 N.W.2d 83, 84-85 (Iowa 2005).

testimony presented. The juvenile court first addressed the father's testimony regarding the July 13 incident:

[The father] incredibly testified that it was [the mother] who asked him to meet her on July 13, 2010. When they argued, he attempted to reach inside the car for some papers she had taken from him, and she closed the window on his hand. He was somehow able to open the door to his vehicle and reach a knife that was on the car seat all the while his other hand was trapped in the window of [the mother's] vehicle, parked close by. He then used the knife in order to break the window and free his hand. Not only is this accounting wholly inconsistent with his plea record, it defies logic to even imagine this gymnastic feat. [The father] continues to claim his innocence to both charges despite his guilty plea to one of them and entering an Alford plea to the other. He testified that he only took the plea deal to avoid possible kidnapping and child endangerment convictions and did not feel he was guilty of anything. Even though he pled guilty to harming [the mother], he testified on September 14 that he never intended to harm her and he never did, in fact, harm her.

The juvenile court further noted how the father's lack of acceptance of responsibility and understanding of domestic abuse went beyond the criminal matters.

[The father] takes no responsibility for his role in the harm [M.K.] has sustained. He incredibly believes that [M.K.] does not fear him even though he admitted harming [the mother]. [The father] makes absolutely no connection between domestic violence and the harm it causes to children. [The father] is under the mistaken perception that domestic violence is between a husband and wife and the child has nothing to do with it, despite the fact that it was [M.K.] who called the police on the night that he observed his father hold a gun to his mother's head.

The juvenile court also thoroughly reviewed the testimony from M.K.'s therapist, who testified M.K. suffers from post-traumatic stress disorder; continues to fear his father; has a consistent and clear recollection of the physical and emotional abuse he witnessed occurring to his mother; displays visceral reactions like cowering, hiding his head under a pillow, and visibly shaking when

seeing his father is mentioned; and wants his father's parental rights terminated. The therapist "firmly believes that termination of parental rights is in [M.K.'s] best interest and is necessary in order to help him move on in a healthy way." Accordingly, the juvenile court found clear and convincing evidence supported termination under section 232.116(1)(i), was in the child's best interests under section 232.116(2), and was not militated by any exceptions under section 232.116(3).

The father now appeals arguing the State failed to prove the statutory ground by clear and convincing evidence. He asserts we should discount much of the testimony regarding domestic abuse and its effects on M.K. as discredited hearsay or as being a product of the mother's manipulations. Upon our de novo review, we affirm the well-written order of the juvenile court terminating the father's parental rights pursuant to Iowa Court Rules 21.29(1)(b) and (d).

**AFFIRMED.**