

IN THE COURT OF APPEALS OF IOWA

No. 2-355 / 12-0522
Filed May 23, 2012

**IN THE INTEREST OF C.J., Jr.,
Minor Child,**

**C.J., Sr., Father,
Appellant.**

Appeal from the Iowa District Court for Linn County, Susan Flaherty,
Associate Juvenile Judge.

A father appeals the termination of his parental rights. **AFFIRMED.**

Robin L. Miller, Marion, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Jerry Vander Sanden, County Attorney, and Lance J. Heeren,
Assistant County Attorney, for appellee State.

Cory J. Goldensoph, Cedar Rapids, for appellee mother.

Brandy R. Lundy of Lundy Law Office, Cedar Rapids, attorney and
guardian ad litem for minor child.

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

VAITHESWARAN, P.J.

A father appeals the termination of his parental rights to his son, born in 2008. He contends (1) the grounds for termination cited by the juvenile court are not supported by clear and convincing evidence and (2) termination was not in the child's best interests.

I. The juvenile court terminated the father's parental rights pursuant to Iowa Code sections 232.116(1)(e) and (h) (2011). On our de novo review, we find clear and convincing evidence to support termination under section 232.116(1)(h) (requiring proof of several elements including proof that the child could not be returned to a parent's custody). See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa 1999) (setting forth standard of review and indicating that if the juvenile court terminates on multiple grounds, we need only rely on one of those grounds in order to affirm).

The facts precipitating the child's removal are narrated in a prior opinion involving the child's mother. See *In re M.P.*, No. 11-0137, 2011 WL 1138751 (Mar. 30, 2011). Essentially, the mother had issues with child abuse and neglect as well as substance abuse. These issues resulted in the removal of this child shortly after his birth in August 2008.

The child's father was also a substance abuser who had a nineteen-year addiction to heroin. He spent time with his child for approximately a year, but, in February 2010, was incarcerated in an Illinois prison for a parole violation based on possession of a controlled substance.

The father remained in prison until July 2011. During his imprisonment, the child's mother arranged informal visits with his child. Following his release,

the father attempted to schedule regular, formal visits. They did not begin until shortly before the termination hearing in December 2011. An Iowa Department of Human Services social worker who supervised a visit testified that “although it went well . . . [the child] did not recognize his dad, did not seem to know him.” She recommended against reunification of the child with his father.

The juvenile court determined that “[the child] could not be placed in the custody of his father at this time or any time in the reasonably near future.” The court cited the father’s criminal history, his substance abuse history, his failure to fully avail himself of services prior to his incarceration, his incarceration, his parole status, his minimal contact with the child for more than a year, and the child’s negative behaviors following current efforts to redevelop a bond. Finally, the court stated that the father’s “current commitment to sobriety and to avoiding further criminal activity has not yet been tested by sufficient time.”

We concur in these findings and we agree with the juvenile court that the child could not be returned to the father’s custody for these reasons.

II. Termination must be in the child’s best interests. *In re P.L.*, 778 N.W.2d 33, 39 (Iowa 2010). The father contends termination was not in the child’s best interests because he was “ready, willing and able to take custody of the child.”

We agree with the father that he showed an interest in reunification with his child and made efforts to facilitate reunification following his release from prison. There is also no question that the father had a support system to assist him in maintaining sobriety and caring for the child. His mother cogently testified to her qualifications as a foster parent, including training in child behavioral

issues, and expressed a willingness to assume the care of the child's half-brother as well as this child so as not to sever the sibling bond. The father's great aunt similarly testified to her ability to assist the father.

At the same time, the three-and-a-half-year-old child knew little about his father, had not interacted with his paternal relatives for some time, and showed signs of reactive attachment disorder. Most importantly, as noted, the father's ability to parent his son independently and safely had yet to be tested. For these reasons, we agree with the juvenile court that termination was in the child's best interests.

AFFIRMED.