

IN THE COURT OF APPEALS OF IOWA

No. 2-524 / 12-0520
Filed June 27, 2012

**IN THE INTEREST OF Z.B.D., Z.J.D., and Z.M.D.,
Minor Children,**

D.J.D., Father,
Appellant,

A.J.G., Mother,
Appellant.

Appeal from the Iowa District Court for Black Hawk County, Stephen C. Clarke, Judge.

A father appeals the termination of his parental rights to his three children.

AFFIRMED.

Christina M. Shriver of Coonrad Law Firm, Hudson, for appellant father.

Carl Morgan Lasley of Dunakey & Klatt, P.C., Waterloo, for mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Steven J. Halbach, Assistant County Attorney, for appellee State.

Linnea Nicol of Juvenile Public Defender Office, Waterloo, attorney and guardian ad litem for minor children.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ.

POTTERFIELD, J.

A father appeals the termination of his parental rights to his three children.¹ He contends the court erred in finding the children could not be returned to the mother and in denying his request to defer permanency. We affirm.

The father is currently incarcerated serving a ten-year term of imprisonment. His incarceration stems from a February 21, 2010 domestic abuse assault on the mother where she received injuries. During the assault, the mother was holding one child and the other child was present.² Two months later, the father entered the mother's residence without her permission and beat up the mother's boyfriend. On July 20, 2010, the father pleaded guilty to child endangerment, domestic abuse assault causing bodily injury, and second-degree burglary.

The three children have been removed from the mother's custody since January 2011 and have remained in the same foster home since that time. They are fully integrated in that pre-adoptive home.

The father's parental rights to his three children (then ages four, three, and eighteen months) were terminated on March 12, 2012, pursuant to Iowa Code section 232.116(e) (2011). He asserts he might earn parole as soon as July 2012 and the court should have deferred permanency to allow him to seek reunification following his release.

¹ The mother's appeal from the termination of parental rights was dismissed as untimely.

² The parties' third child was not born until September 2010. The father was incarcerated at that time and has never met the child.

We review termination orders de novo. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). We give weight to the juvenile court's factual findings, but are not bound by them. *Id.*

The father does not contest the statutory grounds on which the court relied to terminate his parental rights.³ Rather, the father challenges the termination of the mother's parental rights, arguing the children could have been returned to the mother's care at the time of the termination hearing. He lacks standing to assert such an argument. See *In re K.R.*, 737 N.W.2d 321, 323 (Iowa Ct. App. 2007) (stating the father did not have standing to assert an argument on the mother's behalf "in an effort to ultimately gain a benefit for himself, that is, the reversal of the termination of his parental rights"); *In re D.G.*, 704 N.W.2d 454, 460 (Iowa Ct. App. 2005) (stating that one parent cannot assert facts or legal positions pertaining to the other parent).

The father argues the juvenile court should have deferred termination of his rights to allow for his eventual release and further attempt to reunify with the

³ Pursuant to the pertinent paragraph of Iowa Code section 232.116(1), the court may terminate parental rights if—

(e) The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "*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.

children. The juvenile court rejected his request finding that “[e]ven if [the father] were paroled, he would need a lengthy period of counseling to address his assaultive tendencies and his inability to control his anger. It is not realistic to believe that the children could be returned to his care within the next six months.” We concur, noting that in failing to challenge the statutory ground on which his rights were terminated, the father acknowledges he has maintained no significant and meaningful contact with the children during his incarceration. See Iowa Code § 232.116(1)(e) (“There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months . . .”). Any relationship these children had with their father has been diminished by the time and distance of his incarceration, and weighs against deferral of permanency.

There is clear and convincing evidence establishing that grounds for termination of the father’s parental rights exist, termination is in the children’s best interests, and no pertinent factor weighs against termination. We therefore affirm. See *D.W.*, 791 N.W.2d at 707 (stating we do not gamble with children’s futures by asking them to continuously wait for a stable biological parent); *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990) (“Children simply cannot wait for responsible parenting. Parenting . . . must be constant, responsible, and reliable.”).

AFFIRMED.