

IN THE COURT OF APPEALS OF IOWA

No. 2-884 / 12-1403
Filed November 15, 2012

**IN THE INTEREST OF L.C.,
Minor Child,**

**J.R.C., Father,
Appellant.**

Appeal from the Iowa District Court for Polk County, Carol S. Egly, District Associate Judge.

A father appeals the termination of his parental rights to his child.

AFFIRMED.

Robert Luedeman, Windsor Heights, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John Sarcone, County Attorney, and Jon E. Anderson, Assistant County Attorney, for appellee.

Nathaniel Tagtow, Des Moines, for mother.

Michael Bandstra, Des Moines, attorney and guardian ad litem for minor child.

Considered by Vaitheswaran, P.J., and Potterfield and Bower, JJ.

BOWER, J.

A father appeals the termination of his parental rights to his child. He contends the State failed to prove the grounds for termination and requests additional time to show he can safely parent the child. He also contends the juvenile court erred in failing to recuse itself.

Because the father only challenges the sufficiency of the evidence supporting termination under one section, we affirm his termination under the other three sections found by the juvenile court. We find the father should not be granted an additional six months to prove himself a fit parent. Finally, the father has failed to show he was prejudiced by the juvenile court's failure to sua sponte recuse itself for an alleged conflict of interest. Accordingly, we affirm.

I. Background Facts and Proceedings.

L.C. came to the attention of the Department of Human Services (DHS) in July 2011. The father took the child, then eight months old, to Blank Childrens' Hospital because he suspected the child had been abused and neglected while in the mother's care. L.C. had a bruise on her cheek, a very bad diaper rash, and "potential vaginal bruising."

On August 1, 2011, the mother filed a chapter 236 petition for relief from domestic abuse against the father, which she subsequently withdrew. On August 16, 2011, the mother filed another chapter 236 domestic abuse petition, alleging the father had kicked in her car's windshield, broken her apartment window, slashed her car tires, threatened, and harassed her.

On September 1, 2011, unrelated to the domestic abuse petition, the mother consented to have L.C. removed from her care. A hair stat test showed the child had methamphetamine in her body. The source of the methamphetamine was unknown, but both the mother and the father had used methamphetamine. The child was adjudicated to be in need of assistance pursuant to Iowa Code sections 232.2(6)(b), (c)(2), (n), and (o) (2011).

The father admitted he had used illegal substances, including marijuana and methamphetamine. Although he was offered services to address his substance abuse, he failed to take advantage of them. Instead, he took the position that because he had alerted the DHS about the mother's treatment of the child, the case should focus on the mother and not on him.

The State filed its petition to terminate the mother and father's parental rights on March 23, 2012. The father finally entered substance abuse treatment in May 2012, just a few weeks before the termination hearing was held. At the time of the hearing, he had failed to make appointments for counseling as directed, although he testified he was planning to make the appointments that week.

The juvenile court entered its order terminating the father's parental rights on July 13, 2012. The father filed a timely notice of appeal.

II. Scope and Standard of Review.

We review termination of parental rights proceedings de novo. *In re D.S.*, 806 N.W.2d 458, 465 (Iowa Ct. App. 2011). While we are not bound by the

juvenile court's fact-findings, we do give them weight, especially when assessing witness credibility. *Id.*

We will uphold a termination order if clear and convincing evidence supports the grounds for termination under section 232.116. *Id.* Evidence is "clear and convincing" where there are no "serious or substantial doubts as to the correctness or conclusions of law drawn from the evidence." *Id.*

III. Analysis.

The father contends the State failed to prove the grounds for termination by clear and convincing evidence. The juvenile court terminated the father's parental rights under sections 232.116(1)(d), (h), (i), and (l). We need only find grounds to terminate under one of these sections to affirm. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa 1999). The father only argues there is not clear and convincing evidence to support termination pursuant to section 232.116(1)(l). Because the father does not contest the State proved the grounds for termination under sections 232.116(1)(d), (h), and (i), we affirm on these grounds. See Iowa R. App. P. 6.903(2)(g)(3).

The father seeks additional time to show the child can be safely returned to his care. He claims that at the time of termination, he was complying with the DHS's requirements. We disagree. The evidence shows that in spite of repeated warnings of the consequences of failing to comply with services, the father waited until the eve of termination to obtain substance abuse treatment, failed to address his issues of violence and intimidation, and still had not followed through with recommendations regarding counseling.

While we recognize the law requires a “full measure of patience with troubled parents who attempt to remedy a lack of parenting skills,” Iowa has built this patience into the statutory scheme of Iowa Code chapter 232. *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000). The crucial days of childhood cannot be suspended while the parents experiment with ways to face up to their own problems. *See id.* “Children should not be forced to endlessly await the maturity of a natural parent.” *In re J.O.*, 675 N.W.2d 38, 31 (Iowa Ct. App. 2004). Once the limitation period set forth in section 232.116(1) lapses, termination proceedings must be viewed with a sense of urgency. *C.B.*, 611 N.W.2d at 495. Having met the statutory time limits set forth in chapter 232, the child’s need for permanency outweighed the father’s parental rights. Termination was proper.

Finally, the father contends the juvenile court judge abused its discretion in failing to recuse herself. The burden of showing grounds for recusal is on the party seeking recusal. *In re S.D.*, 671 N.W.2d 522, 528 (Iowa Ct. App. 2003). This burden is substantial. *Id.* We review the trial court’s decision on recusal for an abuse of discretion. *Id.* The party must demonstrate the court exercised its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *Id.*

The father argues recusal was warranted because the judge presided over “numerous” recovery court hearings involving the mother. However the father fails to make an argument regarding how he was prejudiced. It is not enough to show the appearance of impropriety. *In re C.W.*, 522 N.W.2d 113, 117 (Iowa Ct. App. 1994). Actual prejudice must be shown before recusal is necessary. *Id.*

The mother and father were not opposing parties in this termination proceeding, so any bias in favor of the mother does not necessarily prejudice the father. Because the father has failed to show how he was prejudiced by the judge's failure to recuse herself from the juvenile proceedings, we find no abuse of discretion.

AFFIRMED.