

**IN THE COURT OF APPEALS OF IOWA**

No. 3-085 / 12-2256  
Filed February 13, 2013

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

**C.F.E., Father,  
Appellant.**

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Appeal from the Iowa District Court for Henry County, Emily S. Dean,  
District Associate Judge.

A father appeals from the order terminating his parental rights to his minor  
child. **AFFIRMED.**

William C. Glass, Keosauqua, for appellant father.

Laura Krehbiel, Donnellson, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant  
Attorney General, Darin Stater, County Attorney, and Ed Harvey, Assistant  
County Attorney, for appellee-State.

Reyna Wilkens, Fort Madison, for minor child.

Considered by Vogel, P.J., Doyle, J., and Mahan, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2013).

**MAHAN, S.J.****I. Background Facts & Proceedings.**

Christopher and Jackie are the parents of R.M., who was born in 2005. The child has never resided with Christopher, and he has had little contact with R.M. Christopher has a criminal history, including domestic assault charges. R.M. was removed from Jackie's care June 10, 2011, due to her substance abuse and mental health problems. R.M. was placed in foster care.

R.M. was adjudicated to be a child in need of assistance pursuant to Iowa Code section 232.2(6)(n) (2011). In the dispositional order, filed on September 21, 2011, the Iowa Department of Human Services was relieved of the requirement to complete a home study on Christopher due to his lack of cooperation. Christopher was inconsistent in participation in services and exhibited a negative attitude with service providers. He was also inconsistent about attending visitation; he had no visits between February and April 2012.<sup>1</sup> Christopher did not comply with drug testing. He completed a mental health evaluation but did not participate in recommended mental health therapy.

On July 11, 2012, the State filed a petition seeking termination of the parents' rights. Christopher had a drug test that was positive for marijuana in September 2012. Christopher filed a motion to continue the termination hearing, which was denied by the juvenile court. The termination hearing was held November 7, 2012.

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<sup>1</sup> Christopher also failed to attend a review hearing in March 2012, and at that time he was not having any contact with his attorney.

The juvenile court entered an order on December 7, 2012, terminating the parents' rights under section 232.116(1)(f). The court found R.M. could not be safely returned to either parent. The court stated it was "gravely concerned" with Christopher's lack of commitment to services and his lack of interest in R.M.'s education. The court concluded termination of the parents' rights was in the child's best interests. Christopher appeals the decision of the juvenile court.<sup>2</sup>

## **II. Standard of Review.**

The scope of review in termination cases is de novo. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). Clear and convincing evidence is needed to establish the grounds for termination. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Where there is clear and convincing evidence, there is no serious or substantial doubt about the correctness of the conclusion drawn from the evidence. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). "The paramount concern in termination proceedings is the best interest of the child." *In re D.S.*, 806 N.W.2d 458, 465 (Iowa Ct. App. 2011).

## **III. Continuance.**

Christopher asserts the juvenile court should have granted his motion for a continuance. He states he was having regular visits with R.M. by the time of the termination hearing. He also points out that his counsel at that time only had about one month to prepare for the termination hearing.<sup>3</sup>

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<sup>2</sup> The mother has not appealed from the order terminating her parental rights.

<sup>3</sup> Christopher had requested new counsel after the petition to terminate parental rights was filed, and the juvenile court appointed the attorney who represented him at the termination hearing on October 3, 2012, which was slightly more than one month before the hearing.

“We review a motion for continuance under an abuse of discretion standard and will only reverse if injustice will result to the party desiring the continuance.” *In re C.W.*, 554 N.W.2d 279, 281 (Iowa Ct. App. 1996). We will not reverse a juvenile court’s decision denying a motion to continue unless that decision was unreasonable. *Id.* A court may appropriately consider whether it is in the best interests of a child to delay proceedings. *In re T.D.H.*, 344 N.W.2d 268, 270 (Iowa Ct. App. 1983).

We conclude the juvenile court did not abuse its discretion in denying Christopher’s motion for a continuance. Although the father may have been having regular visits at the time of the termination hearing, he had been inconsistent in the past. “We may look at a parent’s past performance in determining whether a continuance of a termination proceeding should be granted.” *In re K.A.*, 516 N.W.2d 35, 37 (Iowa Ct. App. 1994). Also, Christopher’s new counsel should have had adequate time to prepare for the termination hearing.

#### **IV. Best Interests.**

Christopher does not contest the grounds for termination of his parental rights. He contends termination of his parental rights is not in R.M.’s best interests. He again asserts he was having regular and consistent visits with R.M. He also claims he had an appropriate home where he could care for R.M.

In order to determine a child’s best interests, we give “primary consideration to the child’s safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child.” *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010)

(quoting Iowa Code § 232.116(2)). “It is well-settled law that we cannot deprive a child of permanency after the State has proved a ground for termination under section 232.116(1) by hoping someday a parent will learn to be a parent and be able to provide a stable home for the child.” *Id.* at 41.

Christopher has not stepped forward to be able to meet R.M.’s needs. R.M. has some behavioral problems, and Christopher has not involved himself in her counseling or therapy to address those issues. Additionally, he has not expressed interest in her medical or educational needs. We also note R.M.’s attorney and guardian ad litem has joined in the recommendation of the State for termination of parental rights. The juvenile court found R.M. had a desperate need for a stable placement, and we agree. Christopher’s inconsistent approach to visitation and services shows he cannot fulfill R.M.’s desperate need for stability. We conclude termination of his parental rights is in R.M.’s best interests.

We affirm the decision of the juvenile court terminating Christopher’s parental rights to R.M.

**AFFIRMED.**