

IN THE COURT OF APPEALS OF IOWA

No. 3-236 / 13-0098
Filed April 10, 2013

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

**M.R., Father,
Appellant.**

Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,
District Associate Judge.

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

AFFIRMED.

Kara L. McFadden, Marion, for appellant mother.

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

Lorraine Machacek, Cedar Rapids, attorney and guardian ad litem for
minor child.

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

VAITHESWARAN, P.J.

A father appeals the termination of his parental rights to his son, born in 2008. He contends (1) the State failed to prove the grounds for termination cited by the juvenile court 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)(h) (2011) (requiring proof of several elements, including proof the child could not be returned to parent's custody) and 232.116(1)(l) (requiring proof, in part, of severe, chronic substance abuse). On our de novo review, we find clear and convincing evidence to establish that the child could not be returned to the father's custody. See *In re S.R.*, 600 N.W.2d 63, 64 (Iowa 1999) (setting forth the 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 toddler was temporarily removed in 2010 after he left the house three times in a twenty-four hour period, without the parents' knowledge. At the time of the removal, the child's mother, who had a history of drug use, was living with the father in violation of a no-contact order.¹ The father also had a history of substance abuse.

The child remained out of the father's care for more than two-and-a-half years. In the interim, the State filed two petitions seeking termination of the father's parental rights. The juvenile court denied both. Each time the court granted the father additional time to move toward reunification.

¹ The mother's parental rights to this child were terminated, and she has not appealed.

Following the court's denial of the second termination petition, the Department of Human Services gave the father three weeks of extended overnight visits with the child and expressed a willingness to proceed with a trial home placement. On the eve of that placement, the department learned that police were called to the father's apartment. A department caseworker questioned the father about the incident. He stated that the mother of the child appeared at his doorstep and, pursuant to a protective plan suggested by the department, he immediately contacted police. The caseworker later learned from police that this version of events was not true. In fact, a neighbor contacted police after hearing a woman who seemed to be trouble. When police arrived at the apartment, no one answered the door. They broke in and found the father hiding underneath a bed and the mother in a closet.

When confronted with this version of events, the father admitted it was true. In an attempt to justify his continued contact with the mother of the child, he stated he "was on a large dose of Ambien" at the time. The department canceled the trial home placement and required further visits to be semi-supervised.

The father continued his downward spiral. During the same month as the police incident, he failed to provide the department with a urine sample for drug testing. The following month, he missed another two drug tests, and in the month after, he missed three. In the fourth month following the police incident, the father was arrested for public intoxication. A preliminary breath test revealed an alcohol concentration of double the legal limit. By this time, the father had squandered the additional reunification period granted by the juvenile court.

In late 2012, the State filed a third termination petition. The juvenile court granted this petition, reasoning as follows:

The court now concedes [the father] is not going to change. He is not willing to make the necessary changes to his life that [the child] needs and deserves so that they can be together. In fact, [the father] has never been a full-time parent to [the child] and, despite their bond and love for each other, this court must conclude [the father] doesn't want to be a full-time parent to his son.

On appeal, the father points out that he had stable housing and employment and was not intoxicated during his visits with the child. These facts would hold more sway if the father had not already been afforded two extensions to work toward reunification. In light of those extensions and the father's conduct after they were granted, we agree with the district court that, this time, termination was warranted.

II. The father next argues termination was not in the child's best interests given the "strong bond" the child shared with him. See Iowa Code § 232.116(3)(c). The caseworker, service provider, and juvenile court acknowledged the existence of this bond. But, in the end, the health and safety of the child were paramount. See *id.* § 232.116(2). The father showed himself incapable of ensuring the child's welfare on his own. For that reason, we agree with the juvenile court that termination was in the child's best interests.

We affirm the juvenile court's termination of the father's parental rights to this child.

AFFIRMED.