

IN THE COURT OF APPEALS OF IOWA

No. 3-737 / 13-0974
Filed August 7, 2013

**IN THE INTEREST OF E.G.,
Minor Child,**

**R.B., Father,
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 child.

AFFIRMED.

Michael H. Bandy of Bandy Law Office, Waterloo, for appellant father.

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.

Theodore Stone, Cedar Falls, for appellee mother.

Timothy Baldwin of the Juvenile Public Defender's Office, Waterloo, attorney and guardian ad litem for minor child.

Considered by Eisenhauer, C.J., and Vaitheswaran and Doyle, JJ.

VAITHESWARAN, J.

Robert appeals the termination of his parental rights to his son, born in October 2012. He does not challenge the grounds for termination on which the district court relied. He simply argues that the court “erred in determining the child could not be returned to [his] care within a six-month period if the court granted the father a deferment of permanency.”

Iowa Code section 232.104(2)(b) (2013) allows a court to postpone termination and “to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order.” If the court chooses this option, the court must “enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child’s home will no longer exist at the end of the additional six-month period.” Iowa Code § 232.104(2)(b). On our de novo review of the record, we are convinced Robert was unable to satisfy this standard. See *In re H.S.*, 805 N.W.2d 737, 745 (Iowa 2011) (setting forth the standard of review).

The child was removed from his mother’s care at the time of his birth based on testing that revealed drugs in his system. While the mother could not conclusively verify that Robert was the father, Robert agreed he would be willing to take on that role, whatever paternity testing revealed.

Robert was immediately afforded three visits per week with the child. The number was later reduced to one visit per week pending the outcome of paternity testing.

Approximately two months after the child's birth and removal, a warrant was issued for Robert's arrest on pending criminal charges. Robert chose to curtail visits to avoid arrest. His paternity was established shortly thereafter.

Robert turned himself in to police three months after the child's birth. He was sentenced on two charges of public intoxication and entered a correctional facility.

By the time of the termination hearing, the infant was seven months old, and Robert had not seen the child for five months. He testified by telephone that he was slated to be released to the care of his sister the following week and he "would like very much" to be a father to his son.

A department of human services social worker recommended immediate termination of Robert's parental rights, citing the father's non-participation in visits for five months, his failure to report for substance abuse treatment following an evaluation, and his noncompliance with all the drug testing that was requested of him. She opined that reunification efforts would take longer than six months because she "would need to see [Robert] in the community for at least six months before [the department] would probably move beyond even a semi-supervised visit based on his history." She continued, "[I]f permanency would be deferred and he would be given an additional six months, I do believe that it would become confusing to [the child] because essentially at this point, [the father] would be a stranger to him."

Based on this record, we conclude deferral of termination was not warranted, and we affirm the district court's termination decision.

AFFIRMED.