

IN THE COURT OF APPEALS OF IOWA

No. 6-1052 / 06-1892
Filed January 31, 2007

IN THE INTEREST OF E.M., Minor Child,

J.M., Father,
Appellant.

Appeal from the Iowa District Court for Dubuque County, Thomas J. Straka, Associate Juvenile Judge.

A father appeals from the juvenile court's permanency order. **AFFIRMED.**

Christopher M. Soppe of Blair & Fitzsimmons, P.C., Dubuque, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, and Jean Becker, Assistant County Attorney, for appellee.

Jamie A. Splinter of Splinter Law Office, Dubuque, guardian ad litem for minor child.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

EISENHAUER, J.

A father appeals from the juvenile court's permanency order. He contends the court erred in concluding the child could not be returned to his care. He further contends the court erred in failing to grant him an additional six months to resume care of the child and in admitting the results of a sweat patch test into evidence.

The father became the child's sole caretaker in August 2003, following the mother's death. The child, now eleven, has endured a turbulent life. His academic work was below grade-level and he exhibited behavioral problems in the classroom. He came to school hungry and without proper clothes and had to be showered at school three times per week. Evidence shows he engaged in dangerous behaviors, such as playing chicken with oncoming traffic while riding his bicycle on a busy highway.

The child was adjudicated in need of assistance following his father's August 2005 arrest for possession of marijuana and methamphetamine with intent to deliver. The father was sentenced to five years probation and received services to improve his parenting. The father was participating in overnight visitations with the child until an April 2006 sweat patch test showed methamphetamine use. Tests from May through August 2006 showed drug use. The father admits to one relapse but argues subsequent positive tests are the result of environmental contamination from methamphetamine being manufactured by another tenant in his apartment building.

In its November 7, 2006 permanency order, the juvenile court found the child could not be returned to the father's home. It ordered the child's continued

removal from the father and another planned permanent living arrangement in a family foster home. The father appeals.

When ordering custody of a child to a person other than a parent for long-term care, the court must find convincing evidence that termination is not in the child's best interest, services were offered to correct the problems that led to the child's removal, and the child cannot be returned home. Iowa Code § 232.104(3) (2005). The juvenile court found termination was not in the child's best interest, but that the child could not be safely returned to his father's care. Our review of an order arising out of a CINA proceeding is *de novo*. *In re S.V.G.*, 496 N.W.2d 262, 263 (Iowa Ct. App. 1992).

We conclude convincing evidence shows the child cannot be returned to the father's care. The father has an extensive history of drug abuse, extending more than thirty years. His brief period of sobriety is not an adequate indication of his long-term prospects, as his substance abuse counselor admitted his prognosis was "guarded." Just as troubling, however, is the poor parenting skills the father has demonstrated and the fact the father believes he has done a good job of parenting and supervising the child. We also concur in the trial court's finding that compelling reasons exist to prohibit the entry of a more permanent order; namely, the harm to the child upon losing his father after having already lost his mother and his remaining loyalty to his father.

We further conclude the court did not err in denying any request by the father for an additional six months to assume care for the child. The crucial days of childhood cannot be suspended while the father experiments with ways to face

up to his own problems. See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997). The child simply cannot wait for responsible parenting. *Id.*

Finally, we conclude the juvenile court did not err in admitting the results of the sweat patch test. A sufficient foundation for admission was made and the father failed to present any evidence that his positive test result was caused by environmental contamination. Accordingly, we affirm.

AFFIRMED.