

**IN THE COURT OF APPEALS OF IOWA**

No. 6-796 / 06-1076  
Filed October 11, 2006

**IN THE INTEREST OF B.A.J., Jr.,  
Minor Child,**

**B.A.J., Sr., Father,  
Appellant.**

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

A father appeals from the termination of his parental rights. **AFFIRMED.**

Daniel McClean of McClean Law Offices, Dyersville, for appellant father.

Kimberly Roddick of Reynolds & Kenline LLP, Dubuque, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, Fred C. McCaw, County Attorney, and Jean Becker, Assistant County Attorney, for appellee State.

Mary Kelley, Dubuque, for minor child.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

**ZIMMER, J.**

A father appeals from the termination of his parental rights to his son. Upon our de novo review, we affirm.

**I. Background Facts & Proceedings**

Brice Sr. and Sandra are the parents of Brice Jr., born October 4, 2005. Brice Jr. was removed from his mother's care two days after his birth because Sandra used methamphetamine daily during her pregnancy and she had two other children removed from her care by authorities in the State of Nevada because of her drug addiction. Brice Sr. was incarcerated in Nevada at the time Brice Jr. was removed from Sandra's care. The juvenile court adjudicated Brice Jr. as a child in need of assistance (CINA) on December 9, 2005.

On March 23, 2006, the State filed a petition to terminate Brice Sr.'s and Sandra's parental rights. When the termination hearing was held, Sandra's whereabouts were unknown, and Brice Sr. was still imprisoned in Nevada. The juvenile court terminated the parental rights of the mother and father in an order filed June 26, 2006. Brice Sr. has appealed.<sup>1</sup>

**II. Scope & Standards of Review**

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the best interests of the child in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

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<sup>1</sup> Sandra has not appealed from the order terminating her parental rights.

### **III. Discussion**

On appeal, Brice Sr. contends: (1) clear and convincing evidence does not support termination of his parental rights, (2) he did not receive reasonable services to promote reunification, and (3) DHS did not properly investigate relative placement.

The juvenile court terminated Brice Sr.'s and Sandra's parental rights pursuant to Iowa Code section 232.116(1)(h) (child is three or younger, child CINA, removed from home for six of last twelve months, and child cannot be returned home). At the time of the termination hearing, Brice Jr. was eight months old, had been adjudicated CINA, and had been removed from his parents' care since birth. Obviously, Brice Sr. is not in a position to care for his son because of his extensive history of drug use and his ongoing incarceration in Nevada. We find clear and convincing evidence supports the termination of the father's parental rights.

Brice Sr. next claims he did not receive reasonable services to promote reunification. The services required to be supplied to an incarcerated parent are only those that are reasonable under the circumstances. *In re S.J.*, 620 N.W.2d 522, 525 (Iowa Ct. App. 2000). Because Brice Sr. was in prison at the time of termination and during much of the CINA proceedings, he was never in a position to assume custody of Brice Jr. or receive reunification services. His incarceration was due to his own actions, and he cannot fault DHS for being unable to provide services to him while he is in prison in another state far from his infant son. We reject this assignment of error.

Brice Sr.'s final contention is DHS did not properly investigate relative placement. The record provides no support for this argument. Brice Sr. proposed two relatives for placement. One informed DHS he was too old to care for a newborn and he felt Brice Sr.'s parental rights should be terminated. The other relative had a long history of drug abuse. We find DHS properly investigated and rejected the relative placements suggested by Brice Sr.

Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to his or her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Brice Sr. was incarcerated at the time of the termination hearing, and the record does not indicate when he will be released. Furthermore, a DHS worker testified the father had not undergone substance abuse treatment. Brice Jr. is currently living with a foster family and is meeting all his developmental milestones. The foster family is willing to adopt him. We agree with the juvenile court's finding that termination of Brice Sr.'s parental rights is clearly in the child's best interests.

#### ***IV. Conclusion***

We affirm the juvenile court's decision to terminate Brice Sr.'s parental rights.

**AFFIRMED.**