

**IN THE COURT OF APPEALS OF IOWA**

No. 6-969 / 06-0726  
Filed February 14, 2007

**IN THE INTEREST OF D.J.M., JR., W.E.M.,  
and J.A.C.M.**

Minor Children,

**C.B., f/k/a C.M.,**  
Petitioner-Appellee,

**D.M.,**  
Respondent-Appellant.

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Appeal from the Iowa District Court for Pottawattamie County, Gary K.  
Anderson, District Associate Judge.

Father appeals from district court decree terminating his parental rights.

**AFFIRMED.**

Jay W. Mez, Council Bluffs, for appellant.

C. R. Hannan of Hannan & Dreismeier, P.L.C., Council Bluffs, for  
appellee.

Keith Engel of Engel Law Office, Council Bluffs, guardian ad litem for  
minor child.

Considered by Zimmer, P.J., and Miller and Baker, JJ.

**MILLER, J.**

Donald is the father and Christin is the mother of D.J.M., Jr., born in 1998, W.E.M., born in 1999, and J.A.C.M., born in 2000. Donald appeals from a March 2006 decree terminating his parental rights to all three children. Upon our de novo review, *In re R.K.B.*, 572 N.W.2d 600, 601 (Iowa 1998), we affirm the district court.

In July 2002 Donald was charged with four counts of sexual abuse in the third degree. The alleged victim was Christin's twelve-year-old daughter, S.R., the children's half-sister and Donald's step-daughter. The abuse occurred while S.R. was residing in the same household as Donald, Christin, and the children. Donald pled guilty to one count of sexual abuse in the third degree, and was sentenced to an indeterminate term of incarceration not to exceed ten years. Donald has been incarcerated since July 24, 2002.

Donald and Christin's marriage was dissolved in December 2002. Pursuant to the dissolution decree, Donald is not allowed any visitation with the children. He is also required to pay \$380.68 per month in child support. Donald is delinquent on his support obligation.

Christin filed a petition to terminate Donald's parental rights to the children pursuant to Iowa Code chapter 600A (2003). In August 2003 the juvenile court entered an order terminating Donald's parental rights for failure to pay his court-ordered child support without good cause. See Iowa Code § 600A.8(5). On appeal, we determined that Christin had failed to establish this ground by clear and convincing evidence, and accordingly reversed the termination of Donald's parental rights. *In re D.J.M.*, No. 03-1546 (Iowa Ct. App. July 14, 2004); see also

*In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2001) (providing that grounds for termination must be shown by clear and convincing evidence).

In mid July 2005, Christin filed a second petition to terminate Donald's parental rights. Christin asserted termination was warranted because Donald had abandoned the children, had failed to contribute to the children's support without good cause, and had been imprisoned for a crime against a child in the household. See Iowa Code § 600A.8(3) (abandonment), (4) (non-support), (9) (imprisonment) (Supp. 2005). The district court determined that Christin had established the allegations in her petition by clear and convincing evidence, and that termination was in the children's best interests. The court accordingly terminated Donald's parental rights to the three children.

Donald appeals. He asserts the record does not establish his abandonment of the children, and that his parental rights cannot be terminated based on imprisonment for a crime against a child in the household unless it is also shown that he is unlikely to be released from prison for a period of five or more years. Finally, he asserts termination is not in the children's best interest.

Donald's parental rights may be terminated if even one ground is shown by clear and convincing evidence, Iowa Code § 600A.8, so long as termination is also in the children's best interest, *R.K.B.*, 572 N.W.2d at 601. Here, the record contains clear and convincing evidence that Donald's rights are subject to termination under section 600A.8(9):

The parent has been imprisoned for a crime against the child, the child's sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

(Emphasis added.) As the district court correctly concluded, this section provides two, alternative grounds for termination: (1) if the parent is imprisoned for a crime against the child, the child's sibling, or another child in the household, or (2) if the parent is imprisoned for any other reason, and is unlikely to be released for a period of five or more years. The record indisputably establishes that Donald was imprisoned for a crime against a child in the household.

The record also demonstrates that termination is in the children's best interests. When Donald was removed from the family home, the children were ages four years, three years, and twenty months. He has had no contact with the children since that time. Christin is remarried, and she and her husband Todd have a son, born in 2005. The guardian ad litem appointed in this matter filed a report opining that termination of parental rights was in the children's best interests. The guardian ad litem noted that Christin and Todd were providing the children with a good home, and that the children wish to be adopted by Todd. The record indicates that Todd has a good relationship with all the children, including the youngest child who has little if any recollection of Donald.

Assessing a child's best interests requires us to

look to the child's long-range, as well as immediate, interests. We consider what the future holds for the child if returned to his or her parents. Insight for this determination can be gained from evidence of the parent's past performance . . . . Our statutory termination provisions are preventative as well as remedial. They are designed to prevent probable harm to a child.

*R.K.B.*, 572 N.W.2d at 601 (citations omitted). In this case, the children interests are best served by terminating Donald's parental rights. The district court decree is accordingly affirmed.

**AFFIRMED.**