

**IN THE COURT OF APPEALS OF IOWA**

No. 7-013 / 06-2014  
Filed February 14, 2007

**IN THE INTEREST OF A.M.B.,  
Minor Child,**

**A.D.M., Father,  
Appellant.**

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Appeal from the Iowa District Court for Carroll County, James C. McGlynn,  
Associate Juvenile Judge.

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

Christopher C. Polking of Polking Law Office, Carroll, for appellant father.

Mark J. Rasmussen, Jefferson, for mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, John Werden Jr., County Attorney, and Tina Meth-Farrington,  
Assistant County Attorney, for appellee State.

Dee Ann Wunschel, Carroll, for minor child.

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

**ZIMMER, P.J.**

Anthony seeks reversal of a juvenile court order that terminated his parental rights to his daughter. Upon our de novo review, we affirm.

***I. Background Facts and Proceedings***

Jennifer is the mother of Anna, born in 1998; Janee, born in 2003; and Haley, born in 2005. Anthony is the father of Anna, Jason is the father of Janee, and Craig is the father of Haley.

Jennifer has a lengthy history of substance abuse. The Iowa Department of Human Services (the Department) removed Anna and Janee from Jennifer's care in January 2005 after police responded to an assault on Jennifer by Craig. At that time, Jennifer was pregnant with Haley. The children were returned to Jennifer's care; however, when the police returned to her apartment in February 2005 for a child welfare check, they found drugs in the apartment and determined that conditions were unsafe for the children. A removal order was entered, and the children were placed with the Department.

Anna and her siblings were adjudicated as children in need of assistance (CINA) on March 23, 2005. After the children were removed from their mother's care, Anthony contacted the Department to request visits with Anna. He arranged to take Anna to his apartment twice a week. Initially, Anthony was diligent about keeping visits with Anna. However, in June of 2005 Anthony informed the Department he was going to Louisiana for two months to care for his sick mother. The Department did not receive any telephone calls or correspondence from Anthony for at least the next four months.

Anthony finally contacted the Department in November 2005 after a social worker left a message with his parents. Anthony stated he would like to assume custody of Anna. When Anthony's mother died, he called the Department to request that Anna be allowed to attend the funeral in Louisiana. The Department told Anthony Anna could not fly to Louisiana alone; however, a social worker suggested he could drive to Iowa to pick up the child for the Christmas holiday. Anthony said he would call the social worker back about the proposed Christmas visit, but he never followed through. When the social worker called Anthony on December 18, Anthony said he was laid off from work and could not afford to drive to Iowa.

Anthony called the Department in March 2006, after Jennifer informed him she was terminating her parental rights. At that time, Anthony asked if Anna could live with him. Because Anthony was still living in Louisiana, he was told he needed to complete a home study in that state. Anthony signed a contract of expectations stating he would call Anna every day, but he failed to call his daughter on numerous occasions. The Louisiana home study recommended against placing Anna with her father.

On March 16, 2006, the State filed a petition to terminate the parental rights of the mother and all three fathers. Jennifer consented to the termination of her parental rights to all three of her children. Craig consented to the termination of his parental rights to Haley. Jason, Janee's father, was in jail at the time of the termination hearing. Following the hearing, the juvenile court terminated the parental rights of the mother and all three fathers in an order filed

November 29, 2006. Only Anthony has appealed. As a result, this appeal concerns only Anna.

## ***II. Scope and Standards of Review***

We review termination proceedings de novo. *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993). Clear and convincing evidence must support the grounds for termination. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

## ***III. Discussion***

The juvenile court terminated Anthony's parental rights pursuant to Iowa Code section 232.116(1)(f) (2005) (child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home). Anthony does not dispute the first three requirements of section 232.116(1)(f) have been met; however, he argues the evidence does not support the conclusion that his daughter cannot be returned to his care. He also contends termination is not in Anna's best interests. Upon our review of the record, we conclude the evidence does not support the father's arguments.

Jennifer and Anthony lived together off and on for about three years. They split up when Anna was about one year old. After ending his relationship with Jennifer, Anthony continued to have some contact his daughter. The amount of contact has varied. Anna has also had some involvement with Anthony's extended family in Louisiana. Anthony resumed his relationship with Jennifer at one point in 2004 and lived with her and Anna for four months. It is fair to say that Anna has had a generally positive relationship with her father.

In a report to the court, a Department social worker recommended that the court terminate Anthony's parental rights. The report noted Anthony had not made Anna a priority in his life. Like the district court, we believe the evidence supports this conclusion. After relocating to Louisiana, Anthony maintained only sporadic telephone contact with his daughter. The Louisiana home study did not recommend placement with Anthony because the Louisiana Department of Social Services was unable to contact all of Anthony's references and because Anthony had a twenty-year-old criminal conviction for burglary.<sup>1</sup> Although we agree with Anthony that his old burglary conviction is not particularly relevant, Anthony has other more recent convictions which are cause for some concern. Anthony has convictions for trespass, possession of a controlled substance, and contempt, and he has two convictions for gathering for use of marijuana. The latest conviction for gathering for use of marijuana occurred in February 2005.

The record reveals Anthony showed little enthusiasm for pursuing custody of Anna until after the State petitioned to terminate his parental rights. Overall, his attempts at reunification with his child have been half-hearted. The juvenile court expressed some concern for Anthony's judgment based on an incident that occurred in November 2006 while Anthony was exercising unsupervised visitation. The record indicates Anthony took Anna to the home of a registered sex offender who was present for at least part of the visit. In addition, when Anthony was asked on cross-examination if he would permit Anna to have contact with Jennifer even if the court terminated the mother's parental rights, he

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<sup>1</sup> Anthony has an adequate home in Louisiana, and he is employed.

stated he would not deny the mother contact with the child. We agree with the juvenile court's conclusion that Anna cannot be returned to Anthony's custody.

The decision to terminate Anthony's parental rights must reflect Anna's best interests even when the statutory grounds for termination are met. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). Anthony contends termination is not in Anna's best interests because of his positive relationship with the child. However, a provider with Lutheran Services informed the Department "Anna generally has had [a] very limited relationship with her father and primarily her comments about him have centered on him sending her gift cards for Walmart." The provider concluded, "[t]his is not a good strong basis for a parental relationship."

When we consider Anna's best interests, we look to her long-range as well as immediate best interests. *In re C.K.*, 558 N.W.2d 170, 172 (Iowa 1997). Anna and her half-sisters have been living together in a family foster home since October 26, 2005. Anna has adjusted well to her foster home. When Anna realized her sisters could not live with Anthony if she moved in with him, she was adamant in her desire to stay with her sisters. We find the termination of Anthony's parental rights is clearly in his daughter's best interests.

#### **IV. Conclusion**

We affirm the juvenile court's decision to terminate Anthony's parental rights to Anna.

**AFFIRMED.**