

IN THE COURT OF APPEALS OF IOWA

No. 7-014 / 06-1710
Filed February 14, 2007

IN THE INTERSET OF I.G., Minor Child,

E.G., Father,
Appellant.

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

A father appeals the termination of his parental rights to his child.

AFFIRMED.

Dan McClean of McClean Law Offices, Dyersville, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Jean Becker, Assistant County Attorney, for appellee.

Patricia M. Reisen-Ottavi, Dubuque, for mother.

Mary Kelley, Dubuque, guardian ad litem for minor child.

Considered by Vogel, P.J., and Vaitheswaran and Eisenhauer, JJ.

EISENHAUER, J.

A father appeals the termination of his parental rights to his child. He contends the State failed to prove by clear and convincing evidence the grounds for termination. We review his claim de novo. *In re C.H.*, 652 N.W.2d 144, 147 (Iowa 2002).

Parental rights were terminated pursuant to Iowa Code section 232.116(1)(h) (2005). Termination is appropriate under this section where:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.
- (4) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102 at the present time.

The only dispute here is whether the child could be returned to the father at the time of termination. Because he could not, we affirm.

The child was removed from the father's care in January 2006. At that time, the child and his father were living in a filthy apartment. On several occasions, the child had feces and lice in his hair. On removal, the child tested positive for exposure to cocaine.¹ The father was fired from his job in March 2006 and evicted from his apartment on May 1, 2006, for nonpayment of rent. He failed to obtain employment prior to the termination hearing.

The father moved from Dubuque, where the child was living in foster care, to Chariton in order to live with his girlfriend and her parents. This resulted in visitations only occurring once per week. The father claims the child would be

¹ The father's drug tested yielded a negative result.

appropriately cared for in this new living arrangement, but acknowledged at the termination hearing that he would be dependent upon his girlfriend and her parents for assistance in caring for the child.

The father essentially argues his girlfriend's parents are appropriate caretakers for the child. This is not the measure. The father has not proven his ability to adequately care for the child. His past actions are an indication of the quality of his future care. See *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). Because the child cannot be returned to his father's care, we conclude termination is appropriate under section 232.116(1)(h).

We further conclude termination is in the child's best interest. Following his removal from his parents' care, it was discovered the child had developmental delays requiring physical and speech therapy. The child has made great progress since his removal. The father does not possess any knowledge or insight into his child's special needs and did not participate in any therapy sessions. The child has bonded with three siblings in his current foster home. Termination is in his best interest.

The mother's counsel filed a brief on appeal indicating that she had not had any contact with the mother, but was adopting the father's argument on behalf of the mother. The mother did not appeal from the termination order within the time limits set in Iowa Rule of Appellate Procedure 6.5(2). Accordingly, we will not consider any appeal on her behalf.

AFFIRMED.