

**IN THE COURT OF APPEALS OF IOWA**

No. 7-017 / 06-2010  
Filed February 14, 2007

**IN THE INTEREST OF M.H.,  
Minor child,**

**M.A.H., Father,  
Appellant.**

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Appeal from the Iowa District Court for Linn County, Barbara H. Liesveld,  
District Associate Judge.

A father appeals the termination of his parental rights by the district court.

**AFFIRMED.**

Deborah M. Skelton, Walford, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Harold L. Denton, County Attorney, and Rebecca A. Belcher,  
Assistant County Attorney, for appellee.

John Bishop, Cedar Rapids, for mother.

Brandy Lundy, Cedar Rapids, for minor child.

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

**VOGEL, P.J.**

Michael appeals the district court's order terminating his parental rights to his daughter, Messiah, born June 2005. Following our de novo review, *In re J.J.S., Jr.*, 628 N.W.2d 25, 28 (Iowa Ct. App. 2001), we affirm.

Messiah was adjudicated a child in need of assistance (CINA) in October 2005, due to concerns regarding her care and her exposure to domestic violence between her parents, Michael and Laura.<sup>1</sup> During the pendency of the CINA case, Michael was resistant to services offered by the Iowa Department of Human Services (DHS). He did have several supervised visits with Messiah, but was unable to maintain regular visits due to recurring arrests and incarcerations. Michael failed to submit to random drug testing, failed to participate in AA/NA with sponsor support, and failed to participate in batterer's education or anger management, as required by DHS. The case proceeded to termination, resulting in the district court's December 2006 order terminating Michael's parental rights to Messiah pursuant to Iowa Code sections 232.116(1)(e) (2005) (child CINA, removed for six months, parent has not maintained significant and meaningful contact with the child) and (h) (child age three or younger, child CINA, removed from home for six of last twelve months, and cannot be returned home). Michael appeals.

Michael argues that the district court erred when it found clear and convincing evidence to terminate his rights under either section 232.116(1)(e) or (h). We need only find the State carried its burden on one ground to affirm. *In re K.L.C.*, 372 N.W.2d 223, 227 (Iowa 1985). As always, our overriding concern in

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<sup>1</sup> The termination of Laura's parental rights was not appealed.

termination cases is the best interests of the minor child. *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa Ct. App. 1998). Michael contends that the State failed to prove that he did not maintain significant contact with Messiah as he participated in visitations when he was able.<sup>2</sup> Since the inception of the CINA case in December 2005, it appears from the record that Michael has exercised supervised visitation approximately fifteen times. However, the majority of the time, Michael has been unable to visit Messiah due to his arrests and incarcerations, including twice violating the protective order against him by having contact with Laura. His sporadic visitation has made it difficult for service providers to gauge his parenting skills or his bonding with Messiah. As recent as August 2006, Michael refused to provide DHS with his address; he remains unemployed. Michael's choice to engage in criminal activity has left him unavailable to Messiah as a parent or caregiver.

Messiah is thriving in foster care and needs permanency and stability in her young life. See *In re L.L.*, 459 N.W.2d 489, 495 (Iowa 1990) ("Children simply cannot wait for responsible parenting."). We agree with the district court that clear and convincing evidence supports the termination of Michael's parental rights and is in Messiah's best interests. Accordingly, we affirm.

**AFFIRMED.**

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<sup>2</sup> Michael also claims failure of proof under 232.116(1)(h) for Messiah not being able to be returned to the care of a parent. As Michael makes no argument that Messiah could have been returned to his care, but only to Laura's care, we deem this issue waived. See Iowa R. App. P. 6.151(2), 6.14(1)(c); *In re D.E.D.*, 476 N.W.2d 737, 739 (Iowa Ct. App. 1991) (finding a father could not challenge the termination of parental rights of the mother, after mother's rights had been terminated).