

IN THE COURT OF APPEALS OF IOWA

No. 7-117 / 06-2104
Filed March 14, 2007

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

**R.S.M., Father,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
District Associate Judge.

A father appeals from the termination of his parental rights to his son.

AFFIRMED.

Carrie Coyle of Carrie E. Coyle, P.C., Davenport, for appellant father.

Neill Kroeger, Davenport, for mother.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant
Attorney General, William E. Davis, County Attorney, and Gerda Lane, Assistant
County Attorney, for appellee State.

Marsha Arnold, Davenport, guardian ad litem for minor child.

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

BAKER, J.

Randy is the father of Brandon who was born in 1994. In December of 2004, Brandon was adjudicated to be a child in need of assistance (CINA) under Iowa Code sections 232.2(6)(c)(2) and 232.2(6)(n) (2003) based upon his parents' inability to provide a safe environment, their substance abuse, mental problems, and domestic violence in the home. In June of 2005, Brandon was removed from his parents' custody and placed in foster care, where he remained until the hearing on this matter. On July 12, 2006, the State filed a petition seeking to terminate the parental rights of Brandon's mother and father. Following a hearing, the court granted the petition and terminated Randy's rights pursuant to sections 232.116(e), (f), (k), and (l) (2005). Randy appeals from this order.¹

We review termination proceedings de novo. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997). The grounds for termination must be proved by clear and convincing evidence. *In re E.K.*, 568 N.W.2d 829, 831 (Iowa Ct. App. 1997). Our primary concern is the best interests of the child. *In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000). While the district court terminated Randy's parental rights on more than one statutory ground, we will affirm if the State has proved by clear and convincing evidence the grounds for termination under one of the grounds. *In re R.R.K.*, 544 N.W.2d 274, 276 (Iowa Ct. App. 1995).

On appeal, Randy contends the record lacks clear and convincing evidence to support termination under any of the grounds alleged by the State.

¹ The court also terminated the parental rights of Brandon's mother. However, she has not appealed from that order.

Upon our careful de novo review of the record, we conclude the court properly terminated Randy's parental rights under section 232.116(1)(f) (child four or older, CINA, removed for twelve months, and cannot be returned home).

Randy has been incarcerated since August of 2005. His original imprisonment was for sexually molesting his stepdaughter when she was eight years old. He had been receiving services in this case, but his participation ceased when he left town to re-initiate his relationship with his stepdaughter when she was seventeen years old. It was based on this relocation to Story County that resulted in his current incarceration for a violation of a Sexual Offender Registry requirement.

Since his imprisonment in 2005, Randy has not seen Brandon. However, even prior to that time, Randy had little meaningful contact with Brandon and made little to no efforts to reunite with him. At the time of removal, Randy was not cooperating with services and was not exercising visitation.

There is little question that at the time of the termination hearing Brandon could not be returned to the custody of Randy. Most significantly, his incarceration prevented such a reunification. Furthermore, service providers remained concerned about his substance abuse. Any further contact between Brandon and Randy would surely subject Brandon to a high risk of adjudicatory harm, nor would further services alleviate this inevitability. We therefore affirm the termination of Randy's parental rights to Brandon.

AFFIRMED.