

**IN THE COURT OF APPEALS OF IOWA**

No. 7-171 / 07-0224  
Filed March 28, 2007

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

**T.B., Father,**  
Appellant.

---

Appeal from the Iowa District Court for Black Hawk County, Daniel L. Block, Associate Juvenile Judge.

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

Dennis M. Guernsey, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kathleen Hahn, Assistant County Attorney, for appellee.

Andrew Abott, Waterloo, for mother.

Andrew Thalacker, Waterloo, for minor child.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

**SACKETT, C.J.**

Ted has filed a petition on appeal challenging the January 2007 order terminating his parental rights to his daughter Starr, born in June of 2002. Ted contends there is not clear and convincing evidence Starr cannot be returned to his custody and that the juvenile court erroneously concluded there is clear and convincing evidence the circumstances leading to Starr being found a child in need of assistance continued to exist. We affirm.

The scope of review in termination cases is de novo. *In re M.N.W.*, 577 N.W.2d 874, 875 (Iowa Ct. App. 1998). The State has the burden of proving the grounds for termination by clear and convincing evidence. *See In re T.A.L.*, 505 N.W.2d 480, 483 (Iowa 1993). A parent has the right to due process and a fair trial when the State seeks to terminate parental rights. *In re R.B.*, 493 N.W.2d 897, 898 (Iowa Ct. App. 1992); *see also Alsager v. Iowa Dist. Ct.*, 406 F. Supp. 10, 22 (S.D. Iowa 1975). The parent-child relationship is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S. Ct. 549, 554, 54 L. Ed. 2d 511, 519 (1978); *Wisconsin v. Yoder*, 406 U.S. 205, 233, 92 S. Ct. 1526, 1542, 32 L. Ed. 2d 15, 35 (1972). A parent's right to have custody of his or her child should be terminated only with the utilization of the required constitutional safeguards. *See Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S. Ct. 625, 626, 67 L. Ed. 1042, 1045 (1923); *In re T.R.*, 460 N.W.2d 873, 875 (Iowa Ct. App. 1990).

The issue of whether or not to sever the biological ties between parent and child legally is an issue of grave importance with serious repercussions to the child as well as the biological parents. *See R.B.*, 493 N.W.2d at 899. The

goal of a child-in-need-of-assistance proceeding is to improve parenting skills and maintain the parent-child relationship. A parent does not have an unlimited amount of time in which to correct his or her deficiencies. *In re H.L.B.R.*, 567 N.W.2d 675, 677 (Iowa Ct. App. 1997).

Ted's parental rights were terminated under Iowa Code sections 232.116(1)(d) and (f) (2005).<sup>1</sup> Starr's mother consented to termination of her parental rights and, while she testified she only agreed to termination of her rights if Ted's rights also were terminated, she has not appealed from the termination order.

---

<sup>1</sup> Iowa Code section 232.116 sets out grounds for termination as follows:

1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

....

d. The court finds that both of the following have occurred:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

....

f. The court finds that all of the following have occurred:

(1) The child is four years of age or older.

(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 twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102.

When the juvenile court terminates parental rights on more than one statutory ground we need only find grounds to terminate parental rights under one of the sections cited by the juvenile court in order to affirm its ruling. *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). We first determine whether there is clear and convincing evidence supporting one or more of the grounds for termination found by the juvenile court.

Starr was removed from her parents' custody in August of 2005. The removal was based, among other things, on possible sexual abuse by Ted and the fact Starr had four abrasions on her thigh. While she has been under the care of the Department of Human Services, Starr has resided in three or more foster care homes.

In September of 2005 Star was found to be a child in need of assistance under Iowa Code sections 232.2(6)(b), (c)(2), and (n). The parents were provided visitation with Starr and certain other services. The parents were to participate in random drug testing. Following a November 2005 hearing, the mother was ordered to participate in an outpatient substance abuse program and mental health counseling. The parents continued to be allowed visits with Starr.

In August of 2006 the guardian ad litem asked that visits by the parents with Starr be discontinued. At a hearing the guardian ad litem's position was supported by Starr's therapist and her daycare provider. The petition for termination of parental rights that led to this petition on appeal was filed in September of 2006.

Starr, though only four year old at the time of the hearing, had been diagnosed with Oppositional Defiant Disorder, Attention Deficit-Hyperactivity

Disorder, Post Traumatic Stress Disorder and possible Reactive Attachment Disorder. The juvenile court attributed this to physical abuse, possible sexual abuse, and numerous disruptions in Starr's care givers. Starr exhibits aggressive and inappropriate sexual behavior.

Ted contends Starr can be returned to his care. The State contends she cannot be returned. Ted contends that he has done everything requested of him and has fully cooperated with services rendered. The juvenile court found that Ted has been available for all services and is committed to have Starr returned to his care, but the court did not find that he had the ability to meet the extraordinary needs of Starr. To place her with him would put her in a place where she did not have appropriate supervision and could be subject to physical and sexual abuse. At the time of the termination hearing she was in at least her third foster home and her current foster parents were anxious that she be moved again.

Ted admits he has a history of substance abuse, but contends he has not used controlled substances for at least ten years. He further admits he pled guilty to child endangerment as a part of a plea bargain. He seeks to minimize the incident, contending he had a life threatening illness at the time of the event when Starr's mother left her in his care.

Ted argues that Rhonda Herum of Families First, a provider contracted with by the Department of Human Services to provide Ted parental skills and supervise his visits with Starr, testified she had not seen Ted lose patience with the child though she had seen them in trying situations. He and several witnesses who testified on his behalf related that Ted has a close relationship with Starr and he has been the one able to control her. Ted argues that Starr's

behaviors have been exacerbated by the constant change of caregivers while in the State's care. He further contends that he is bonded with the child and he may be the only person with whom she is willing to bond.

The evidence of whether Starr could be returned to Ted's home was conflicting. The State's witnesses, including Rhonda Herum, were generally of the opinion she could not be returned to his care, while Ted's witnesses, who included friends who had observed Ted in his home caring for Starr and his other children, had the opposite opinion. Ted's older daughter, who was living in his home with her daughter, agreed with Ted's friends that Starr could be adequately cared for in Ted's home.

The grounds for termination 232.116(1)(f) were proven by clear and convincing evidence. We affirm the termination.

**AFFIRMED.**