

**IN THE COURT OF APPEALS OF IOWA**

No. 7-248 / 07-0292  
Filed April 25, 2007

**IN THE INTEREST OF D.D.R.,  
Minor Child,**

**O.R. Jr., Father,  
Appellant.**

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Appeal from the Iowa District Court for Pottawattamie County, Gary K. Anderson, District Associate Judge.

A father appeals from the order terminating his parental rights to his daughter. **AFFIRMED.**

William McGinn, Council Bluffs, for appellant father.

John Heithoff, Council Bluffs, for mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Matthew Wilber, County Attorney, and Dawn Eimers, Assistant County Attorney, for appellee State.

Maura Goaley, Council Bluffs, for minor child.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

**ZIMMER, J.**

Otis Jr. appeals from the juvenile court order terminating his parental rights to his daughter. We affirm.

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

Otis Jr. is the father and Amber<sup>1</sup> is the mother of Domianque, born in September 2001. Domianque was removed from her father's care in May 2005 because of concerns that the child and her siblings were being physically abused. Initially, the juvenile court placed Domianque in the care of a relative, where she remained until June 20, 2005. At that time, Domianque and one of her half-siblings were returned home and placed in the care, custody, and control of Otis Jr.'s girlfriend, Bonnie.

Domianque was adjudicated as a child in need of assistance (CINA) in August 2005. The court allowed Otis Jr. to be present in the family home; however, Domianque remained in Bonnie's custody, and provisions were put in place to monitor the safety of the child and her siblings. The juvenile court ordered Otis Jr. to participate in a chemical dependency evaluation, a psychological evaluation, parenting classes, random drug screens, and treatment.

In October 2005 law enforcement officers arrested Otis Jr. after they discovered marijuana and a loaded handgun in his vehicle. Since that time, the father has made little effort to comply with court orders. Otis Jr. was arrested

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<sup>1</sup> Amber has not been in contact with the Iowa Department of Human Services since the inception of the case, and she has not appealed from the termination of her parental rights.

again in April 2006 on a federal warrant and incarcerated. He tested positive for marijuana and amphetamines prior to his arrest.

The State filed a petition to terminate Otis Jr. and Amber's parental rights on November 1, 2006. The Iowa Department of Human Services and Domianque's guardian ad litem recommended that Otis Jr.'s and Amber's parental rights be terminated. Following a hearing held on January 25, 2007, the juvenile court terminated Otis Jr.'s and Amber's parental rights in an order filed February 16, 2007. Otis Jr. has appealed.

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

We review termination proceedings de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be supported by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). We are primarily concerned with the child's best interests in termination proceedings. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

## ***III. Discussion***

The juvenile court terminated Otis Jr.'s parental rights on a variety of statutory grounds, including Iowa Code sections 232.116(1)(b) (2005) (abandonment), 232.116(1)(d) (child CINA for physical abuse, sexual abuse, or neglect; circumstances continue despite receipt of services), 232.116(1)(e) (child CINA, child removed for six months, parent has not maintained significant and meaningful contact with the child), 232.116(1)(f) (child four or older, child CINA, removed from home for twelve of last eighteen months, and child cannot be returned home), and 232.116(1)(j) (child CINA, parent has substance abuse problem, child cannot be returned within a reasonable time). In this appeal, Otis

Jr. contends he should have been given additional time after his incarceration to attempt reunification with his daughter. He also argues the circumstances that led to the CINA adjudication no longer exist, and he claims termination is not in Domianque's best interest. Upon our review of the record, we find no merit in any of the father's arguments.

The State maintains Otis Jr. has waived any challenge with respect to sections 232.116(1)(b), (e), (f), and (l) because he only specifically addresses section 232.116(1)(d) in his petition on appeal. We agree that any challenge to the statutory grounds for termination set out in sections 232.116(1)(b), (e), (f), and (l) has been waived. In any event, we find all the grounds for termination alleged by the State have been proved by clear and convincing evidence. Otis Jr. has a history of substance abuse, and the record reveals he failed to comply with the recommendations of his substance abuse evaluation. Domianque has been removed from her father's care since May or June of 2005. Otis Jr. has made little effort to comply with the orders of the juvenile court since October 2005. At the time of the termination hearing, Otis Jr. was in jail facing a lengthy term of incarceration.<sup>2</sup> The juvenile court did not err in concluding the statutory grounds for termination have been met in this case.

Even when the statutory grounds for termination are met, the decision to terminate parental rights must reflect the child's best interests. *In re M.S.*, 519 N.W.2d 398, 400 (Iowa 1994). When we consider the child's best interests, we look to his or her long-range as well as immediate best interests. *In re C.K.*, 558

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<sup>2</sup> The juvenile court received a report indicating the father's term of incarceration was expected to be about three years.

N.W.2d 170, 172 (Iowa 1997). Domianque has experienced repeated disruptions in her life. She deserves stability and permanency, which her father cannot provide. *In re C.D.*, 509 N.W.2d 509, 513 (Iowa Ct. App. 1993). Domianque has been removed from Otis Jr.'s custody for nearly two years. She should not be made to wait any longer for her father to become a responsible parent. *J.L.W.*, 570 N.W.2d at 781. We conclude termination of Otis Jr.'s parental rights is in the child's best interests.

***IV. Conclusion***

We affirm the juvenile court's decision to terminate Otis Jr.'s parental rights.

**AFFIRMED.**