

**IN THE COURT OF APPEALS OF IOWA**

No. 7-250 / 07-0339  
Filed May 9, 2007

**IN THE INTEREST OF F.L.H.,  
Minor Child,**

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

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Appeal from the Iowa District Court for Louisa County, Mark Kruse, District Associate Judge.

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

**AFFIRMED.**

Esther J. Dean, Muscatine, for appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, David L. Matthews, County Attorney, and Korie Shippee, Assistant County Attorney, for appellee State.

Mark Neary, Muscatine, for appellee mother.

Arlen Pooch, Muscatine, for the minor child.

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

**VAITHESWARAN, J.**

Mark appeals the termination of his parental rights to F.L.H., born in 2006. He contends the record lacks clear and convincing evidence to support termination under Iowa Code sections 232.116(1)(g) (2005) (requiring proof of several elements including proof that parents lack “the ability or willingness to respond to services which would correct the situation” and “an additional period of rehabilitation would not correct the situation”) and (h) (requiring proof of several elements including proof that the child could not be returned to the parent’s custody). He also contends termination was not necessary because the child was placed with a relative. Iowa Code § 232.116(3)(a).

We may affirm a termination decision if there is clear and convincing evidence to support any of the grounds cited by the district court. *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). Reviewing the record de novo, we are persuaded that the child could not have been returned to Mark’s custody. Mark was incarcerated throughout F.L.H.’s young life. An Iowa Department of Human Services social worker testified that his discharge date was March 2010. Although Mark’s attorney stated Mark would complete substance abuse treatment by May 25, 2007, and would “be eligible for parole and release” at that time, this information could not be verified with his prison counselor, as Mark did not sign a release of information. In any event, Mark was clearly unavailable to assume custody of the child at the time of the termination hearing or in the imminent future.

As for Mark’s contention that termination should have been deferred based on the child’s placement with a relative, we note that almost a year had

elapsed since F.L.H.'s birth and, during that period, Mark had no contact with the child. Additionally, the department's social worker testified that F.L.H was "developmentally on target" despite having been born with amphetamines in his system. She also noted that he appeared "to be a happy child." We conclude termination of Mark's parental rights to F.L.H. was in the child's best interests.

**AFFIRMED.**