

IN THE COURT OF APPEALS OF IOWA

No. 7-446 / 07-0759
Filed August 8, 2007

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

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

Appeal from the Iowa District Court for Appanoose County, William S. Owens, Associate Juvenile Judge.

A father appeals the juvenile court order terminating his parental rights to his minor child. **AFFIRMED.**

Jonathan Willier, Centerville, for the appellant father.

Thomas J. Miller, Attorney General, Kathrine Miller-Todd, Assistant Attorney General, and Robert Bozwell, County Attorney, for appellee State.

Kevin Maughan, Centerville, for the minor child.

Considered by Mahan, P.J., and Eisenhauer, J. and Nelson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

NELSON, S.J.**I. Background Facts and Proceedings**

Martin and Renea are the parents of Nathan, who was born in 1998.¹ Martin has a history of substance abuse. In October 2005, at which time Nathan was residing with Martin, his father, Martin agreed to place Nathan in the care of his ex-wife Teresa, after a drug test showed he had been using illegal drugs. A hair test showed Nathan had been exposed to methamphetamine and marijuana. Illegal drugs and drug paraphernalia was found throughout the home Nathan shared with his father.

Nathan was adjudicated a child in need of assistance (CINA) pursuant to Iowa Code section 232.2(6)(c)(2), (n), and (o) (2005) on April 6, 2006. The juvenile court ordered Nathan should remain in the care of Teresa. Martin was ordered to participate in in-home services, have a substance abuse evaluation, provide drug tests, and participate in mental health counseling. He did not participate in any services. Martin attended only four supervised visits with Nathan since October of 2005.

In August 2006, Martin became incarcerated on drug charges. In January 2007, the state filed a petition seeking to terminate Martin's parental rights. Nathan was removed from Teresa's care in March 2007 after the Department of Human Services found out a family friend, Linda, had actually been caring for Nathan much of the time. Teresa indicated she was no longer interested in having Nathan live with her. Nathan was placed in foster care.

¹ The whereabouts of Renea are unknown. She is not a party to this appeal.

The juvenile court terminated Martin's parental rights under section 232.116(1)(e) and (f) (2007) in April of 2007. The court found:

[Martin] has a long history of criminal behavior, and a long history of substance abuse. He has had opportunities to participate in services to have Nathan returned to his custody, but chose to continue his drug use and criminal activity rather than to work toward having his child returned. There is simply no evidence presented that [Martin] would be able to overcome these past problems in sufficient time to allow Nathan to be placed with him. Nathan should not have to wait for his father to overcome his past. He is in need of permanency now, and the best way for that to be established is for his parents' parental rights to be terminated so that he can be freed for adoption.

Martin appeals the juvenile court order terminating his parental rights.

II. Standard of Review

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). Grounds for termination must be proven by clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interests of the child. *In re C.B.*, 611 N.W.2d 489, 492 (Iowa 2000).

III. Merits

Martin asserts termination of his parental rights is not in Nathan's best interests. He states he may be out of prison soon and be able to resume care of his child. Martin asks that Nathan be placed with Linda until he is released from the prison system.

On our de novo review of the record, we find termination of Martin's parental rights is in Nathan's best interests. Martin may be in jail until December 2008, and even then it is very unlikely Nathan could be safely returned to his care. Before he was sent to jail Martin did nothing to deal with the problems

which lead to Nathan's removal. Also, he has only participated in four visits with his child. Martin's actions reveal a lack of interest in resuming care of Nathan and an unwillingness to meet the child's needs.

The record clearly supports the finding by the juvenile court that grounds for termination of the parental rights of Martin have been established by clear and convincing evidence.² We affirm the juvenile court order terminating Martin's parental rights.

AFFIRMED.

² And while she has not appealed, the record also clearly shows that grounds for termination of the parental rights of Renea have also been established by clear and convincing evidence.