

**IN THE COURT OF APPEALS OF IOWA**

No. 7-450 / 07-0589

Filed July 12, 2007

**IN THE INTEREST OF M.R.H.,  
Minor Child,**

**K.G.H., Father,  
Appellant.**

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Appeal from the Iowa District Court for Woodbury County, Mary Jane Sokolovske, Judge.

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

**AFFIRMED.**

Roger E. McEntaffer of McEntaffer Law Office, Sioux City, for appellant father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, Patrick Jennings, County Attorney, and Dewey Sloan, Assistant County Attorney, for appellee State.

Joesph Kertels of the Juvenile Law Center, Sioux City, for appellee mother.

Bruce G. Thomas of Thomas & Poulson Law Firm, P.C., Sioux City, for minor child.

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

**VAITHESWARAN, J.**

Kenneth is the father of McKenzie, born in 2006. McKenzie was placed in foster care at birth, based on her mother's drug use.<sup>1</sup> Kenneth initially exercised supervised visitation with his daughter. The Department of Human Services curtailed that visitation after cocaine was detected in his system. The State petitioned to terminate Kenneth's parental rights. Following a hearing, the district court granted the petition pursuant to several statutory provisions.

On appeal, Kenneth contends: (1) the district court did not "fairly evaluate" the evidence, (2) termination was not in McKenzie's best interests, and (3) the State did not satisfy an element of one of the statutory grounds for termination.

*I.* Kenneth asserts that the district court made an inaccurate reference to his probationary status and inappropriately characterized his employment history as unstable. On our *de novo* review, we are not convinced that either of these references requires reversal.

At the time of the child's removal, Kenneth was on probation for a federal drug crime. By the time of the termination hearing, he had been discharged from probation for approximately one month. The district court did not mention the fact of his discharge. However, the court accurately described Kenneth's three-decade history of illegal drug use, including several relapses in the year before the termination hearing. These facts, rather than the fact he was off probation, were of particular relevance to the termination decision.

Similarly, the fact that the court found Kenneth incapable of maintaining stable employment despite his recent acquisition of a full-time job is of less

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<sup>1</sup> The mother's parental rights to McKenzie were terminated. She has not appealed.

relevance than his continued abuse of drugs. Kenneth had no contact with his daughter for four months. Although he testified that he completed a drug treatment program one month before the termination hearing, this progress came too late to allow for reunification. See *In re C.B.*, 611 N.W.2d 489, 495 (Iowa 2000).

*II.* Kenneth's contact with his daughter was restricted because of his relapse. As a result, he had no interaction with her for half of her young life. Under these circumstances, we agree with the district court that McKenzie's best interests were served by termination of Kenneth's parental rights to her. *Id.* at 492.

*III.* Kenneth maintains that the petition to terminate his parental rights was filed before a statutory period for removal had elapsed. See Iowa Code § 232.116(1)(h)(3) (2007) (requiring removal "from the physical custody of the child's parents for at least six months of the last twelve months, or for the last six consecutive months"). As noted, the district court relied on several grounds for termination. See Iowa Code §§ 232.116(1)(d), (h), (i), (j). Kenneth only challenges subsection (h). Therefore, even if Kenneth succeeded in his challenge to the evidence supporting one element of subsection (h), he waived error on any challenges to the other grounds and there remain ample alternate grounds for termination. See *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

**AFFIRMED.**